

1 requirements of the standards of safety.

2 (5) The commissioner~~[executive director]~~ shall issue supplemental regulations
3 addressing the temporary change of use in buildings as authorized by KRS Chapter
4 198B. These regulations shall establish specific standards for such use and shall be
5 designed to operate in conjunction with the Kentucky Building Code.

6 (6) Any standards of safety or other regulations promulgated under this section shall be
7 subject to the requirements of KRS 198B.030(9) and (10) and 198B.040(11).

8 ➔Section 395. KRS 227.310 is amended to read as follows:

9 The commissioner~~[executive director]~~ shall conduct a hearing prior to the issuance of
10 rules and regulations promulgated pursuant to KRS 227.300. At such hearing interested
11 parties shall be given an opportunity to be heard in person or by counsel. The
12 commissioner~~[executive director]~~ shall cause a notice of such hearing to be published
13 pursuant to KRS Chapter 424. No defect or inaccuracy in the notice or in its publication
14 shall invalidate any such rules or regulations.

15 ➔Section 396. KRS 227.320 is amended to read as follows:

16 The authorities of any county, city, or other political subdivision shall adopt and enforce
17 the standards of safety promulgated by the commissioner~~[executive director]~~, and may
18 enter upon private property to enforce required fire lane open space in parking lots
19 containing space for ten (10) or more vehicles. Whenever the commissioner~~[executive~~
20 ~~director]~~, by rules and regulations prescribes a standard of safety from fire loss, such rules
21 and regulations shall establish a minimum requirement concerning the matters covered
22 thereby and shall be so construed in relation to any local rules and regulations.

23 ➔Section 397. KRS 227.330 is amended to read as follows:

24 (1) Whenever the state fire marshal or any deputy state fire marshal finds that any
25 property is not safe as to fire loss, under the terms and conditions of this chapter and
26 under the administrative regulations promulgated thereunder, or that the practices or
27 methods of construction or operation, or processes or materials employed or used in

1 connection therewith do not afford adequate protection from fire loss, under this
 2 chapter or under applicable administrative regulations, he shall order that additions,
 3 improvements, repairs, or changes be made and equipment be provided or action be
 4 taken that will reasonably render the property safe.

5 (2) Orders and notices of the state fire marshal shall be effective only when in writing
 6 signed by him or by his authority.

7 (3) Every order of the fire marshal shall state its effective date and shall concisely state:

8 (a) The grounds or alleged violations on which based;

9 (b) The provisions of this chapter or the administrative regulations pursuant to
 10 which action is so taken or proposed to be taken;

11 (c) The date by which the alleged violation shall be corrected or eliminated and
 12 the correction recommended therefor; and

13 (d) All other matters required by law.

14 (4) Except as provided by KRS 227.340, an order or notice may be given by delivery to
 15 the person to be ordered or notified or his agent or by mailing it, postage prepaid,
 16 addressed to him at his principal place of business or residence as last of record in
 17 the department ~~fire marshal's office~~.

18 (5) Before any order issued under subsection (1) of this section is enforceable, notice
 19 and opportunity for a hearing shall be provided the owner or his agent in accordance
 20 with KRS Chapter 13B.

21 (6) Whenever the state fire marshal or any deputy state fire marshal designated by him
 22 for that purpose finds that a violation or violations of the provisions of this chapter
 23 or any administrative regulations promulgated thereunder render any property
 24 especially susceptible to fire loss, and there is present such hazard to human life or
 25 limb that the public safety imperatively requires emergency action, a fire inspector
 26 or other state fire marshal employee may be authorized in writing by the state fire
 27 marshal to issue an emergency order pursuant to KRS 13B.125 that directs the

1 property to be closed to the public or vacated by its occupants until the violation is
2 corrected.

3 (7) Notwithstanding the above upon receipt of notice of an emergency order issued
4 under subsection (6) of this section, an owner or agent may seek a temporary
5 restraining order prohibiting its enforcement in the Circuit Court within whose
6 jurisdiction the property is located. The court shall review the emergency order and
7 may prohibit its enforcement.

8 (8) Appeals from any order issued or action taken under this section may be taken in
9 the manner prescribed by KRS 227.335.

10 (9) An order prepared by the state fire marshal's designee and approved in writing by
11 the state fire marshal shall be considered the state fire marshal's order.

12 ➔Section 398. KRS 227.331 is amended to read as follows:

13 (1) Any person who willfully violates any administrative regulation, emergency order,
14 or final order of the state fire marshal shall be subject to suspension or revocation of
15 certificate of authority, occupancy, or other license or permit, or administrative fine
16 not exceeding one thousand dollars (\$1,000) in lieu of suspension or revocation, for
17 violation of the provision to which the administrative regulation or order relates,
18 after notice and hearing in accordance with KRS Chapter 13B.

19 (2) It shall be the duty of the state fire marshal, or upon the commissioner's~~executive~~
20 ~~director's~~ request, of the Attorney General, to bring an action to enforce any proper
21 order made or action taken by the state fire marshal or on his or her authority, or for
22 the recovery of the penalties provided in subsection (1) of this section, and to bring
23 an action for a restraining order or for a temporary or permanent injunction, as the
24 state fire marshal deems necessary for the prevention or correction of a condition
25 constituting or threatening to constitute a violation of this chapter or administrative
26 regulations promulgated thereunder. In any action for a restraining order or for a
27 temporary or permanent injunction, allegations in a verified complaint or affidavit

1 by the state fire marshal deputy or employee that the respondent is in violation of
 2 specified fire prevention and protection laws or administrative regulations and the
 3 violation or violations present such hazard to human life or limb that the public
 4 safety imperatively requires emergency action shall be sufficient under Rule 65 of
 5 the Kentucky Rules of Civil Procedure to show that the applicant's rights are being
 6 or will be violated and that he or she will suffer immediate and irreparable injury,
 7 loss, or damage before notice can be served and a hearing had thereon or pending a
 8 final judgment in the action.

9 (3) All actions for enforcement, recovery of administrative fines, and injunctive relief
 10 for violations of this chapter shall be brought in the name of the Commonwealth of
 11 Kentucky by the state fire marshal, or upon the commissioner's~~executive~~
 12 ~~director's~~ request by the Attorney General, in the Circuit Court within which the
 13 property involved is located.

14 (4) If the state fire marshal has reason to believe that any person has violated any
 15 provision of this chapter, for which criminal penalties are provided and in his or her
 16 opinion prosecution would be in order, he or she shall give the information relative
 17 thereto to the appropriate county attorney, Commonwealth's attorney, or to the
 18 Attorney General. The county attorney, Commonwealth's attorney, or Attorney
 19 General shall promptly institute any action or proceedings against the person as in
 20 his or her opinion the information may require or justify.

21 ➔Section 399. KRS 227.332 is amended to read as follows:

22 (1) The state fire marshal shall give written notice of a hearing as required by KRS
 23 Chapter 13B. In addition to all parties to the hearing, the state fire marshal shall
 24 give this notice to all persons whose pecuniary interests, to the state fire marshal's
 25 knowledge or belief, are to be directly and immediately affected by the hearing.

26 (2) If any hearing is to be held for consideration of administrative regulations of the
 27 commissioner~~executive director~~, or of other matters which, under subsection (1)

of this section, would otherwise require separate notice to more than thirty (30) persons, in lieu of other notice the commissioner~~executive director~~ may give notice of the hearing by publication pursuant to KRS Chapter 424; but the commissioner~~executive director~~ shall mail the notice to all persons who had requested the same in writing in advance and have paid to the commissioner~~executive director~~ the reasonable amount fixed by him or her to cover the cost thereof.

- (3) All notices, other than notices provided for in subsection (2) of this section, shall be given as provided in KRS Chapter 13B.

→ Section 400. KRS 227.336 is amended to read as follows:

- (1) Whenever the state fire marshal or any deputy state fire marshal appointed or employed by him or her makes any finding set forth in subsection (1) of KRS 227.330, or finds any property in violation of any provision of KRS 227.200 to 227.410 or any regulations adopted thereunder, in lieu of the order required in KRS 227.330(1), he or she shall notify the owner or his or her agent in writing of such specific finding and violation and instruct him or her to correct the violation within a period of time not to exceed sixty (60) days. Should the owner fail to make the required corrections within the specified time, the state fire marshal may proceed to take any other action authorized in this chapter.

- (2) If the state fire marshal or a deputy state fire marshal is required to make additional inspections, beyond the initial inspection and one (1) follow-up inspection, to determine if the required corrections referred to in subsection (1) of this section have been made, the state fire marshal or the deputy state fire marshal shall assess a fee against the property owner to recover the cost of each additional inspection according to the following schedule:

| | |
|----------------------------|----------|
| Third inspection fee..... | \$100.00 |
| Fourth inspection fee..... | \$200.00 |

1 Fifth and subsequent inspection fee.....\$500.00

2 (3) Any fee collected under the provisions of this section by the state fire marshal shall
 3 be payable to the State Treasury and credited to the Division of Fire
 4 Prevention~~[Office of the State Fire Marshal]~~ for the operation of the general
 5 inspection program. Any fee collected under the provisions of this section by a
 6 deputy state fire marshal shall be payable to the fire department conducting the
 7 inspection.

8 (4) If during a follow-up inspection or any subsequent inspection for the same violation
 9 the state fire marshal or a deputy state fire marshal finds an additional violation not
 10 found during the initial inspection, such additional violation shall be treated as an
 11 initial violation which the property owner shall have the opportunity to correct
 12 under subsection (1) of this section prior to the assessment of a fee under subsection
 13 (2) of this section.

14 ➔Section 401. KRS 227.390 is amended to read as follows:

15 If any owner fails to comply with an order issued pursuant to KRS 227.380 or with an
 16 order as modified on appeal to the commissioner~~[executive director]~~, the officer may
 17 cause the property to be repaired, or removed if repair is not feasible, and all fire hazard
 18 conditions remedied, at the expense of the owner. Such expense may be enforced against
 19 any property of such owners and the officer and those employed to do the work or who
 20 furnish materials or equipment therefor shall have a lien for such expense on the real
 21 estate or property involved.

22 ➔Section 402. KRS 227.410 is amended to read as follows:

23 (1) As used in this section:

24 (a) "Gas-fired heating device" means a gas burning appliance of either a gravity
 25 or mechanical circulation type, designed for the heating of air or of water in an
 26 enclosed structure;

27 (b) "Gas-fired room heating device of the unventable type" means a self-

1 contained, free standing, air heating, gas-fired appliance, designed as a space
2 heater for an enclosed structure; and

3 (c) "Enclosed structure" includes a room used for public assembly, educational,
4 instructional, mercantile, office, or residential purposes (including
5 manufactured homes, mobile homes, travel trailers, and houseboats).

6 (2) No person, firm, or corporation shall sell at retail or wholesale, or offer or expose
7 for sale at retail or wholesale any gas-fired room heating device of the unventable
8 type, or other type which has not been approved as provided in KRS 234.175,
9 except unvented heaters that are built and sold solely for the curing of tobacco,
10 which if sold or used by any person for any other purpose shall subject him or her to
11 the penalty set forth in KRS 227.991.

12 (3) No person, firm, or corporation shall install in any room or enclosed structure any
13 gas-fired room heating device of the unventable type or other type which has not
14 been approved as provided in KRS 234.175.

15 (4) No person, firm, or corporation may install any gas-fired heating device of the
16 ventable type for use in any room or enclosed structure unless said device is vented
17 in accordance with the provisions of the standards of safety of the
18 Department~~Office~~ of Housing, Buildings and Construction.

19 (5) No person, firm, or corporation who may own a gas-fired heating device of the
20 unventable type or a gas-fired heating device of the ventable type, which has not
21 been approved as provided in KRS 234.175, or which does not conform to the
22 provisions of the standards of safety of the department~~office~~ (all of which heating
23 devices are referred to as "proscribed heaters" in this subsection and subsection (6)
24 of this section), or who may occupy an enclosed structure in which such a
25 proscribed heater is installed, shall continue to use or operate said proscribed heater
26 after receipt of a written order described in subsection (6) of this section, and before
27 the conditions contained in said order are met.

1 (6) Cities of the first or second class may under ordinance duly enacted appoint
 2 inspectors or officers who have power to issue written orders directing owners of
 3 heaters or occupants of structures in which heaters are installed, to discontinue the
 4 use or operation of a proscribed heater and to specify conditions which must be met
 5 before said proscribed heater may again be used or operated. Said order may be
 6 issued if said authorized person has actual knowledge of the existence of a
 7 proscribed heater, and, in the opinion of said authorized person, the continued use
 8 or operation of said proscribed heater would constitute a danger to life or health;
 9 provided however, no person, agency, firm, or corporation (other than the owner,
 10 user, seller, or installer of a proscribed heater) shall be liable for civil damages for
 11 his or her or its failure to recognize a proscribed heater, for failure to issue the order
 12 described in this subsection, for complying with said order, for assisting with the
 13 compliance therewith, or for allowing the continued use or operation of a proscribed
 14 heater prior to receipt of said order.

15 (7) This section shall not apply to liquefied petroleum gas heaters subject to the
 16 jurisdiction of the department~~office~~ under KRS Chapter 234, except those
 17 liquefied petroleum gas heaters sold or installed for residential usage.

18 ➔Section 403. KRS 227.450 is amended to read as follows:

19 As used in KRS 227.450 to 227.500 unless the context otherwise requires:

20 (1) "Electrical contractor" means any licensed individual, partnership, or corporation
 21 that is licensed to engage in, offers to engage in, or advertises or holds itself out to
 22 be qualified to engage in designing, planning, superintending, contracting of, or
 23 assuming responsibility for the installation, alteration, or repair of any electrical
 24 wiring used for the purpose of furnishing heat, light, or power, and employs
 25 electrical workers to engage in this practice. If the electrical contractor is not a
 26 master electrician, the electrical contractor shall employ at least one (1) full-time
 27 master electrician;

- 1 (2) "Electrician" means any person licensed by the department~~{office}~~ who is employed
 2 by an electrical contractor and is engaged in the construction, alteration, or repair of
 3 any electrical wiring used for the purpose of furnishing heat, light, or power;
- 4 (3) "Electrical" pertains to the installation, alteration, or repair of wires and conduits for
 5 the purpose of transmitting electricity, and the installation of fixtures and equipment
 6 in connection therewith;
- 7 (4) "Electrical inspector" means any person certified by the commissioner~~{executive~~
 8 ~~director}~~ of housing, buildings and construction pursuant to KRS 227.489 who, for
 9 compensation, inspects the construction and installation of electrical conductors,
 10 fittings, devices, and fixtures for light, heat, or power service equipment to ascertain
 11 the compliance with the National Electrical Code incorporated in the Uniform State
 12 Building Code promulgated pursuant to KRS 198B.050 or the standards of safety of
 13 the Commonwealth of Kentucky; and
- 14 (5) "Department~~{Office}~~" means the Department~~{Office}~~ of Housing, Buildings and
 15 Construction.

16 ➔Section 404. KRS 227.480 is amended to read as follows:

- 17 (1) A city, county, urban-county, charter county, or consolidated local government
 18 shall, according to the Uniform State Building Code as it pertains to the plan review
 19 and inspection responsibilities of local governments, require any person to obtain
 20 permits before commencing construction, alteration, or repairs of any electrical
 21 wiring. The city, county, urban-county, charter county, or consolidated local
 22 government shall require all inspections that are deemed necessary by the
 23 department~~{office}~~ for the safety of life and property. The department~~{office}~~ shall
 24 promulgate administrative regulations to describe the circumstances where
 25 inspections are required.
- 26 (2) A city, county, urban-county, charter county, or consolidated local government or
 27 the state shall not issue a permit unless the applicant submits proof of being

1 licensed as an electrical contractor under KRS Chapter 227A or of acting on behalf
 2 of a licensed electrical contractor. However, the provisions of this subsection shall
 3 not apply to a homeowner or farmer who does construction, alteration, or repairs of
 4 any electrical wiring on his or her own premises or any other person exempt from
 5 licensing under KRS 227A.030. This subsection shall not apply to electrical work
 6 performed by the Commonwealth of Kentucky, a city, county, urban-county, charter
 7 county, or consolidated local government, or any subdivision thereof.

8 (3) A city, county, urban-county, charter county, or consolidated local government shall
 9 appoint and may fix the compensation of city, county, urban-county, charter county,
 10 or consolidated local government electrical inspectors, and may by ordinance fix
 11 reasonable fees and establish other requirements for the conduct of electrical
 12 inspections within its boundaries. All electrical inspectors must be certified under
 13 KRS 227.489.

14 (4) Reasonable standards for the construction, alteration, and repair of any electrical
 15 wiring shall be those adopted in the Uniform State Building Code, as promulgated
 16 by the Board of Housing, Buildings and Construction, and shall have as a minimum
 17 standard the requirements of the National Electric Code. These standards shall be
 18 used by the electrical inspector in making his inspections.

19 →Section 405. KRS 227.487 is amended to read as follows:

20 Except where other rules are adopted by a city or county, the following reporting and fee
 21 requirements shall apply to electrical inspections of residential buildings and single-
 22 family dwellings:

23 (1) The inspector shall complete a report for each inspection. One (1) copy of the report
 24 shall be given to the owner of the electrical installation or his representative at the
 25 time the inspection fees are paid. A second copy of the report shall be sent to the
 26 Department~~Office~~ of Housing, Buildings and Construction no later than one (1)
 27 week after the inspection is completed. The report shall include, but is not limited

1 to, the following:

2 (a) The address of the dwelling inspected;

3 (b) The number of rooms, number of receptacles and number of switch boxes
4 inspected;

5 (c) Number of code violations, if any;

6 (d) A description of each code violation, and recommended change to correct the
7 violation;

8 (e) The date and time of day the inspection commenced;

9 (f) The time, in hours and minutes, required for the inspection;

10 (g) The number of miles and hours and minutes of travel time incurred by the
11 inspector for that inspection, if mileage and travel charges are added to the
12 inspection fee;

13 (h) The amount charged for the inspection, separated into an amount for mileage,
14 if any, and the amount for travel time, if any, and the amount charged for the
15 actual inspection.

16 (2) The maximum inspection fee shall be an amount equal to the prevailing wage for a
17 master electrician in the region in which the inspection is made, multiplied by the
18 time required to conduct the inspection. This rate shall not be applied to travel time
19 to and from the inspection.

20 (3) An inspector may charge, in addition to the inspection fee, an amount for necessary
21 travel to and from the inspection site. The mileage rate charged shall not exceed the
22 amount per mile allowed to state employees, and the inspector shall charge no more
23 than ten dollars (\$10) per hour for travel time. If two (2) or more inspections are
24 made during one (1) trip, then the cost of travel shall be divided between the
25 inspections made. In no case shall an inspector charge more than once for the same
26 trip, or charge for mileage or time not actually expended.

27 (4) Each inspector shall furnish bond of five thousand dollars (\$5,000) with surety

1 satisfactory to the Department~~[Office]~~ of Housing, Buildings and Construction.

2 (5) The Department~~[Office]~~ of Housing, Buildings and Construction shall design
3 reporting forms which meet the requirements of subsection (1) of this section, and
4 provide these forms to electrical inspectors. The department~~[office]~~ shall adopt
5 regulations to administer the requirements of this section.

6 (6) Nothing in this section is intended to limit the right of cities or counties to set fees
7 or adopt rules for electrical inspections which are different from those specified in
8 subsections (1), (2), (3) or (4) of this section.

9 ➔Section 406. KRS 227.489 is amended to read as follows:

10 The commissioner~~[executive director]~~ of housing, buildings and construction shall
11 require electrical inspectors to be certified. Examinations shall be based on the National
12 Electrical Code incorporated in the Uniform State Building Code and the standards of
13 safety prescribed by the department~~[office]~~. Electrical inspectors who have been engaged
14 in the inspection of electrical light and power wiring installations, based on the
15 requirements of the National Electrical Code, for a period of three (3) years, may be
16 certified on the basis of knowledge of this subject and experience. No certificate shall be
17 denied, suspended, or revoked unless the applicant or certificate holder is afforded the
18 opportunity for a hearing in accordance with KRS Chapter 13B.

19 ➔Section 407. KRS 227.491 is amended to read as follows:

20 (1) An electrical inspector who certifies an electrical installation shall furnish and
21 attach an approval sticker, bearing his or her signature and certification number in a
22 conspicuous place on the main service entrance equipment. He or she shall also
23 provide the owner of the electrical installation or his or her authorized agent with a
24 certificate of approval if the same is requested. A complete record of each
25 inspection shall be kept by the inspector and these records shall be made available
26 to the Department~~[Office]~~ of Housing, Buildings and Construction upon its request.

27 (2) No electrical inspector shall:

- 1 (a) Attempt to supplant, overrule, or otherwise invalidate the judgment of another
- 2 electrical inspector whose services for a particular building, structure, or other
- 3 project have been solicited by an owner, contractor, municipality, or other
- 4 person without first obtaining express written consent from the designated
- 5 inspector's office supervising the original inspector;
- 6 (b) Certify unlicensed or unlawful electrical installations;
- 7 (c) Certify or inspect an electrical installation in a manufactured home or mobile
- 8 home where the certified installer seal is not present pursuant to KRS
- 9 227.570; or
- 10 (d) Certify or inspect an electrical installation in a previously owned
- 11 manufactured home or a previously owned mobile home when a Class B1 seal
- 12 is not present as required by KRS 227.605.

13 (3) Failure of an electrical inspector to observe subsection (2) of this section shall
 14 subject that inspector to review by the commissioner~~[executive director]~~ of
 15 housing, buildings and construction with possible suspension of certification for a
 16 period not to exceed one (1) year from the date of the commissioner's~~[executive~~
 17 ~~director's]~~ ruling.

18 ➔Section 408. KRS 227.492 is amended to read as follows:

19 It shall be the duty of the commissioner~~[executive director]~~ of housing, buildings and
 20 construction to investigate alleged misconduct of any electrical inspector certified under
 21 KRS 227.489 when, in the opinion of the commissioner~~[executive director]~~, there is
 22 sufficient evidence to suggest that such misconduct exists. Any party may seek redress
 23 from the commissioner~~[executive director]~~ when alleged misconduct of an electrical
 24 inspector is deemed to have worked an undue hardship on the party.

25 ➔Section 409. KRS 227.495 is amended to read as follows:

- 26 (1) Electrical inspectors shall have the authority to take immediate action to prevent
- 27 further electrical work at any inspection site where, in the judgment of the electrical

inspector, imminent danger to life or property exists. Actions the electrical inspector may take to address this danger are the following:

- (a) Stop-work order regarding any electrical work at the inspection site; or
- (b) Recommendations of fines or other penalties as described in KRS 227.500.

(2) The findings of the electrical inspector under subsection (1) of this section shall be presumed to be correct until the city, county, urban-county, charter county, or consolidated local government, the department~~{office}~~, or the party affected by the findings demonstrates that it is more likely than not that the electrical inspector was incorrect in his or her findings.

(3) The actions of an electrical inspector under this section are subject to misconduct investigation by the commissioner~~{executive director}~~ under KRS 227.492, and the inspector is subject to any appropriate criminal or civil penalty due to misconduct or violation of any provision of KRS 227.200 to 227.400 or 227.450 to 227.500.

➔Section 410. KRS 227.530 is amended to read as follows:

(1) There is hereby created an Electrical Advisory Committee which shall be attached to the Department~~{Office}~~ of Housing, Buildings and Construction for administrative purposes. The committee shall be constituted as follows:

- (a) Two (2) members chosen from public utility companies;
- (b) Two (2) members who are electricians;
- (c) Two (2) members who are certified electrical inspectors, one (1) of whom shall be employed by a governmental entity and the other who shall be an independent contractor engaged in the business of inspecting electrical installations;
- (d) Two (2) members who are licensed professional electrical engineers;
- (e) Two (2) members who are engaged in the business of electrical contracting; and
- (f) One (1) member who is engaged in the business of electrical contracting and

1 who employs no more than five (5) full-time employees when appointed.

2 (2) Committee members shall be appointed by the Governor for four (4) year terms. No
3 committee member shall be appointed for more than one (1) successive term.

4 (3) The committee shall meet at least quarterly or upon request of the
5 department~~office~~ for the purpose of considering matters relating to electrical
6 installations and electrical inspections. The committee shall have the opportunity to
7 review and comment on relevant administrative regulations that are subject to the
8 requirements of KRS 198B.030(9) and (10) and 198B.040(11) and shall make
9 recommendations to and otherwise advise the department~~office~~ on these matters.

10 (4) All committee members shall be compensated for expenses incurred in the conduct
11 of Commonwealth business.

12 ➔Section 411. KRS 227.550 is amended to read as follows:

13 As used in this section to KRS 227.660, 227.990, and 227.992, unless the context
14 requires a different definition:

15 (1) "Board" means the Manufactured Home Certification and Licensure Board.

16 (2) "Seal" means the United States Department of Housing and Urban Development
17 seal for manufactured homes.

18 (3) "Class B1 Seal" and "Class B2 Seal" mean seals issued pursuant to subsection (1) of
19 KRS 227.600.

20 (4) "Retailer" means any person, firm, or corporation, who sells or offers for sale two
21 (2) or more manufactured homes, mobile homes, or recreational vehicles in any
22 consecutive twelve (12) month period. The term "retailer" shall not include:

23 (a) A manufacturer, as defined in this section;

24 (b) Any bank, trust company, or lending institution that is subject to state or
25 federal regulation, with regard to the disposition of its own repossessed
26 manufactured housing; or

27 (c) A licensed real estate agent who acts as a negotiator between an owner and a

1 prospective purchaser and does not acquire ownership or possession of
2 manufactured homes for resale purposes.

3 (5) "Established place of business" means a fixed and permanent place of business in
4 this state, including an office building and hard surface lot of suitable character and
5 adequate facilities and qualified personnel, for the purpose of performing the
6 functional business and duties of a retailer, which shall include the books, records,
7 files, and equipment necessary to properly conduct such business, or a building
8 having sufficient space therein in which the functional duties of a retailer may be
9 performed. The place of business shall not consist of a residence, tent, temporary
10 stand, or open lot. It shall display a suitable sign identifying the retailer and his
11 business.

12 (6) "Federal act" means the National Manufactured Housing Construction and Safety
13 Standards Act of 1974, 42 U.S.C. secs. 5401 et seq., as amended, and rules and
14 regulations issued thereunder.

15 (7) "Manufactured home" means a single-family residential dwelling constructed in
16 accordance with the federal act, manufactured after June 15, 1976, and designed to
17 be used as a single-family residential dwelling with or without a permanent
18 foundation when connected to the required utilities, and includes the plumbing,
19 heating, air conditioning, and electrical systems contained therein. The
20 manufactured home may also be used as a place of business, profession, or trade by
21 the owner, the lessee, or the assigns of the owner or lessee and may comprise an
22 integral unit or condominium structure. Buildings the construction of which is not
23 preempted by the federal act are subject to building code requirements of KRS
24 Chapter 198B.

25 (8) "Factory-built housing" means manufactured homes, mobile homes, or mobile
26 office units.

27 (9) "Manufacturer" means any person who manufactures manufactured homes and sells

1 to Kentucky retailers.

2 (10) "Mobile home" means a factory-built structure manufactured prior to June 15, 1976,
3 which was not required to be constructed in accordance with the federal act.

4 (11) "~~Department~~[Office]" means the Department of Housing, Buildings, and
5 Construction in the Public Protection Cabinet~~[office of the state fire marshal]~~.

6 (12) "Recreational vehicle" means a vehicular type unit primarily designed as temporary
7 living quarters for recreational, camping, or travel use, which either has its own
8 motive power or is mounted on or drawn by another vehicle not requiring a special
9 permit for movement on Kentucky highways. The basic entities are: travel trailer,
10 camping trailer, truck camper, motor home, and park vehicle.

11 (a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide
12 temporary living quarters for recreational, camping, or travel use, and of such
13 size or weight as not to require special highway movement permits when
14 drawn by a motorized vehicle, and with a living area of less than two hundred
15 twenty (220) square feet, excluding built-in equipment (such as wardrobes,
16 closets, cabinets, kitchen units, or fixtures) and bath and toilet rooms.

17 (b) Camping trailer: A vehicular portable unit mounted on wheels and constructed
18 with collapsible partial side walls which fold for towing by another vehicle
19 and unfold at the camp site to provide temporary living quarters for
20 recreational, camping, or travel use.

21 (c) Truck campers: A portable unit constructed to provide temporary living
22 quarters for recreational, travel, or camping use, consisting of a roof, floor,
23 and sides, designed to be loaded onto and unloaded from the bed of a pickup
24 truck.

25 (d) Park vehicle: A vehicle which:

- 26 1. Is built on a single chassis mounted on wheels;
- 27 2. Is primarily designed as temporary living quarters for seasonal or

1 destination camping and which may be connected to utilities necessary
2 for operation of installed fixtures and appliances;

3 3. Has a gross trailer area not exceeding four hundred (400) square feet in
4 the set-up mode;

5 4. Has a gross trailer area not less than two hundred forty (240) square feet
6 and is certified by the manufacturer as complying with ANSI A119.5,
7 Park Vehicles.

8 (e) Motor home: A vehicular unit designed to provide temporary living quarters
9 for recreational, camping, or travel use built on or permanently attached to a
10 self-propelled motor vehicle chassis or on a chassis cab or van which is an
11 integral part of the completed vehicle.

12 (13) "Secretary" means the Secretary of the Federal Department of Housing and Urban
13 Development.

14 (14) "ANSI" means the American National Standards Institute.

15 ➔Section 412. KRS 227.555 is amended to read as follows:

16 (1) Every manufactured or mobile home as defined in KRS 227.550 shall have:

17 (a) At least one (1) working smoke detector located inside the home near the
18 bedroom areas on each floor level; and

19 (b) At least two (2) operable means of egress, if the home was originally equipped
20 with at least two (2) means.

21 (2) The Department~~{Office}~~ of Housing, Buildings and Construction, through the
22 promulgation of administrative regulations in accordance with KRS Chapter 13A,
23 shall design and cause to be placed:

24 (a) At each vehicle entrance to a manufactured home park or community as
25 defined in KRS 219.320, a notice stating the requirements set out in
26 subsection (1) of this section, the penalty for noncompliance set out in
27 subsection (5) of this section, and any other information it deems necessary to

1 effect the purposes of this section; and

2 (b) In each county clerk's office, a notice stating the requirements set out in
3 subsection (1) of this section, the penalty for noncompliance set out in
4 subsection (5) of this section, and any other information it deems necessary to
5 effect the purposes of this section.

6 (3) No public servant with the authority to issue a citation shall enter a manufactured or
7 mobile home solely for the purpose of determining whether or not the manufactured
8 or mobile home is in compliance with this section.

9 (4) No ordinance contrary to subsections (1) and (3) of this section may be enacted by
10 any unit of local government, and the provisions of subsections (1) and (3) shall
11 supersede any local ordinance to the contrary. The provisions of this subsection
12 shall not apply to any city which has adopted or may in the future adopt the
13 Uniform Residential Landlord and Tenant Act under KRS Chapter 383.

14 (5) The owners of manufactured homes and mobile homes located within a
15 manufactured home park or community which do not comply with subsection (1) of
16 this section shall be responsible for the correction of any violation.

17 (6) Any person who violates subsection (1) of this section shall be guilty of a violation.

18 ➔Section 413. KRS 227.560 is amended to read as follows:

19 (1) There is hereby created the Manufactured Home Certification and Licensure Board
20 which shall issue certificates of acceptability to qualifying manufacturers and
21 licenses to retailers and shall certify installers.

22 (2) The board shall consist of the state fire marshal, the secretary of the Transportation
23 Cabinet, the commissioner of the Department for Public Health, or their designees,
24 and seven (7) citizens of the Commonwealth appointed by the Governor, which
25 shall include three (3) manufactured or mobile home retailers, one (1) certified
26 manufactured or mobile home installer, and three (3) members who shall have no
27 interest in the industry to be regulated.

- 1 (3) The state fire marshal, the secretary of the Transportation Cabinet, and the
2 commissioner of the Department for Public Health shall be permanent members of
3 the board, by virtue of their respective offices. The appointed members of the board
4 shall hold office for terms of four (4) years with their terms expiring on September
5 1 of even-numbered years. Each member shall hold office until his or her successor
6 is appointed and has qualified.
- 7 (4) In the initial appointments to the board, the Governor shall designate three (3)
8 members to serve for two (2) years and three (3) to serve for four (4) years. In the
9 initial appointment of the certified manufactured or mobile home installer to the
10 board, the Governor shall designate the member to serve for a term expiring
11 September 1, 2004.
- 12 (5) All members appointed from the manufactured housing industry shall be required to
13 remain licensed and certified~~licensees of the office~~ during their term and are
14 subject to removal for chronic absenteeism.
- 15 (6) If a vacancy occurs in the office of one (1) of the members of the board, the position
16 shall be filled by a person appointed by the Governor, and the person so appointed
17 shall serve only to the end of the unexpired term.
- 18 (7) The chairman of the board shall be elected by the board. In the event of the
19 chairman's absence or disability, the members of the board shall elect a temporary
20 chairman by a majority vote of those present at a meeting.
- 21 (8) Each appointed member shall be entitled to fifty dollars (\$50) for each day he is in
22 attendance at meetings or hearings or on authorized business of the board, including
23 time spent in traveling to and from the place of the meeting, hearing, or other
24 authorized business. Each member of the board shall also be entitled to
25 reimbursement for travel and other necessary expenses incurred in performing
26 official duties.
- 27 (9) The chairman, or in his absence a temporary chairman selected by the members of

1 the board present at the meeting, shall preside at all meetings of the board. The
 2 board shall have regular meetings at times specified by a majority vote of the board.
 3 The chairman may call special meetings at any time. He shall call a special meeting
 4 on written request by two (2) or more members of the board. A majority of the
 5 board shall constitute a quorum to transact business.

6 (10) All staff assistance deemed necessary by the board to carry out the functions and
 7 duties assigned to it in KRS 227.550 to 227.660 shall be provided by the
 8 department~~office~~ and shall function under the supervision of the ~~administrative~~
 9 head of the department~~office~~.

10 (11) The provisions of KRS 198B.030(9) and (10) and 198B.040(11) shall not apply to
 11 the board.

12 ➔Section 414. KRS 227.570 is amended to read as follows:

13 (1) The department~~office~~ shall enforce such standards and requirements for the
 14 installation of plumbing, heating, and electrical systems in manufactured homes and
 15 mobile homes and for previously owned recreational vehicles as it determines are
 16 reasonably necessary in order to protect the health and safety of the occupants and
 17 the public. These standards and requirements shall be those adopted by the
 18 Manufactured Home Certification and Licensure Board.

19 (2) The department~~office~~ shall enforce such standards and requirements for the body
 20 and frame design, construction, and installation of manufactured homes and mobile
 21 homes as it determines are reasonably necessary in order to protect the health and
 22 safety of the occupants and the public. These standards and requirements shall be
 23 those adopted by the Manufactured Home Certification and Licensure Board. If any
 24 part of 1976 Ky. Acts ch. 136 conflicts with Title 6 of the Federal Housing and
 25 Community Development Act of 1974, the federal act shall take precedence.

26 (3) All installations of manufactured homes and mobile homes shall be performed by
 27 an installer certified under the provisions of KRS 227.560 in accordance with the

1 manufacturer's instructions, if available, or ANSI A225.1, Manufactured Home
2 Installations.

- 3 (4) A certified installer shall apply for a certified installer seal prior to installing a
4 manufactured home or a mobile home. The board shall promulgate administrative
5 regulations in accordance with KRS Chapter 13A. The administrative regulations
6 shall provide for the fees, purchase and application of the seal, report procedures,
7 and attachment of the certified installer seal.

8 ➔Section 415. KRS 227.580 is amended to read as follows:

- 9 (1) It is unlawful for any manufacturer to manufacture, import, or sell manufactured
10 homes within this state unless such manufacturer has been issued a certificate of
11 acceptability for such manufactured homes from the board or its designee~~[office]~~.

12 This provision shall not, however, apply to manufactured homes manufactured in
13 this state and designated for delivery to and sale in another state.

- 14 (2) The department~~[office]~~ shall require that the manufacturer establish and submit to
15 the department~~[office]~~ for approval systems for quality control for recreational
16 vehicles prior to the issuance of a certificate of acceptability. Certificates of
17 acceptability shall be numbered and a record shall be kept by the
18 department~~[office]~~, by number, of the certificates issued to manufacturers.

- 19 (3) No manufacturer to which a certificate of acceptability has been issued shall modify
20 in any way its manufacturing specifications without prior written approval of the
21 department~~[office]~~.

22 ➔Section 416. KRS 227.590 is amended to read as follows:

- 23 (1) The board shall make and the department~~[office]~~ shall enforce rules and regulations
24 reasonably required to effectuate the provisions of KRS 227.550 to 227.660 and to
25 carry out the department's~~[state fire marshal's office's]~~ responsibilities as a state
26 administrative agency for the enforcement and administration of the federal act.

- 27 (2) At least thirty (30) days before the adoption or promulgation of any change in or

1 addition to the rules and regulations authorized in subsection (5) of this section the
 2 ~~department~~~~office~~ shall mail to all manufacturers possessing valid certificates of
 3 acceptability and retailers possessing valid licenses a notice including a copy of the
 4 proposed changes and additions and the time and place that the board will consider
 5 any objections to the proposed changes and additions. After giving the notice
 6 required by this section, the board shall afford interested persons an opportunity to
 7 participate in the rule making through submission of written data, views, or
 8 arguments with or without opportunity to present the same orally in any manner.

9 (3) Every rule or regulation or modification, amendment, or repeal of a rule or
 10 regulation adopted by the board shall state the date it shall take effect.

11 (4) Notwithstanding the provisions of KRS 227.550 to 227.660, the board shall have
 12 the authority to promulgate rules and regulations exempting manufacturers and
 13 retailers from the provisions of KRS 227.550 to 227.660 when manufactured homes
 14 or mobile homes are brought into this state for exhibition only.

15 (5) All rules, regulations, codes, fees, and charges adopted by the board pursuant to
 16 KRS 227.550 to 227.660 shall be prepared and filed in accordance with KRS
 17 Chapter 13A.

18 (6) The board shall have the authority to promulgate rules and regulations to issue
 19 temporary licenses, not to exceed thirty (30) days, to out-of-state retailers for the
 20 purpose of participating in manufactured home shows in the Commonwealth of
 21 Kentucky.

22 ➔Section 417. KRS 227.600 is amended to read as follows:

23 (1) Any retailer who has acquired a previously owned manufactured home, mobile
 24 home, or recreational vehicle without a seal shall apply to the ~~department~~~~office~~
 25 for the appropriate seal by submitting an affidavit that the unit has been brought up
 26 to or meets reasonable standards established by the board for previously owned
 27 manufactured homes, mobile homes, or recreational vehicles. Those manufactured

homes or mobile homes taken in trade must be reinspected and certified. A numbered Class B1 Seal shall be affixed by the retailer to the unit prior to sale. A seal will not be required if such retailer submits an affidavit that the unit will not be resold for use as such by the public. A retailer shall not transport or install a manufactured or mobile home which is to be used for residential purposes which does not have a Class B1 Seal.

(2) The owner of any manufactured home or mobile home which is not covered by the federal act and which was purchased in another state and not bearing a seal of approval shall purchase a seal from the department~~{office}~~. Application to purchase a seal of approval shall be made to the department~~{office or other person or agency authorized by the state fire marshal}~~.

(3) The department~~{office}~~ shall make available suitable forms for application for seals of approval for previously owned manufactured homes or mobile homes which are not covered by the federal act and for previously owned recreational vehicles.

(4) The clerk of the county in which a manufactured home, mobile home, or previously owned recreational vehicle is sought to be registered after June 1, 1976, which was purchased out of Kentucky, shall require production of proof of purchase of a seal of approval as provided in subsection (2) of this section before registering or issuing a license for any manufactured home, mobile home, or previously owned recreational vehicle.

→Section 418. KRS 227.605 is amended to read as follows:

(1) No person shall transport into the Commonwealth of Kentucky any previously owned manufactured or mobile home for the purpose of resale or use as a dwelling in the Commonwealth of Kentucky unless the previously owned manufactured or mobile home has a B1 Seal attached to it prior to resale or use as a dwelling. The application and certification procedures for the attachment of the B1 Seal prior to the resale or occupancy of the manufactured or mobile home shall be set out by the

1 ~~board~~~~[office]~~ through the promulgation of administrative regulations in accordance
 2 with the provisions of KRS Chapter 13A. Nothing in this section shall require a
 3 person who owns a manufactured or mobile home in another state and who
 4 transports that manufactured or mobile home into the Commonwealth of Kentucky
 5 to use as that person's dwelling to obtain a Class B seal.

- 6 (2) Except for manufactured or mobile homes installed within the Commonwealth of
 7 Kentucky before July 13, 2004, no person shall sell, lease, rent, or furnish for use as
 8 a dwelling in the Commonwealth of Kentucky any previously owned manufactured
 9 or mobile home that does not bear a B1 Seal and which is not installed in
 10 compliance with the manufacturer's instructions, if available, or ANSI 225.1,
 11 Manufactured Home Installations.

12 ➔Section 419. KRS 227.610 is amended to read as follows:

13 The board or its designee~~[office]~~ shall~~[- after approval by the board,]~~ license retailers
 14 under the provisions of KRS 227.550 to 227.660. The~~[- office may make the]~~ issuance of a
 15 license shall be contingent upon the applicant's chief managing officer passing a test
 16 administered by the department~~[office]~~. Before issuing a license, the department~~[office]~~
 17 shall require proof of liability insurance which shall name the department~~[office]~~ in the
 18 certificate of insurance, and the license shall be null and void if there is a lapse of
 19 coverage in insurance.

20 ➔Section 420. KRS 227.620 is amended to read as follows:

- 21 (1) No retailer shall engage in business as such in this state without a license therefor as
 22 provided in KRS 227.550 to 227.660.
- 23 (2) Application for license shall be made to the board or its designee at such time, in
 24 such form and contain such information as the board shall require and shall be
 25 accompanied by the required fee. The board may require in such application, or
 26 otherwise, such information as it deems commensurate with the safeguarding of the
 27 public interest in the locality in which said applicant proposes to engage in business,

1 all of which may be considered by the board in determining the fitness of said
 2 applicant to engage in business as set forth in KRS 227.550 to 227.660.

3 (3) All licenses shall be granted or refused within thirty (30) days after application. The
 4 initial license for a retailer shall expire on the last day of the licensee's birth month
 5 in the following year. The board may reduce the license fee on a pro rata basis for
 6 initial licenses issued for less than twelve (12) months. Renewed licenses shall
 7 expire on the last day of the licensee's birth month of each year after the date of
 8 issuance of the renewed license.

9 (4) The license fee for such calendar year or part thereof shall be established by the
 10 board, subject to the following maximums:

11 (a) For manufacturers a "certificate of acceptability" shall be subject to a
 12 maximum of five hundred dollars (\$500).

13 (b) For retailers the maximum license fee shall be two hundred fifty dollars
 14 (\$250) for each established place of business.

15 (c) The fee for a "Class B Seal" for recreational vehicles shall be twenty-five
 16 dollars (\$25) per seal and the application form and seal shall be made
 17 available from the department~~{office}~~.

18 (d) The fee for a "Class B1 Seal" and "Class B2 Seal" for manufactured and
 19 mobile homes shall be established by the board subject to a maximum of
 20 twenty-five dollars (\$25) per seal.

21 (e) The department~~{office}~~ may establish a monitoring inspection fee in an
 22 amount established by the secretary. This monitoring inspection fee shall be
 23 an amount paid by each manufactured home manufacturer in this state for
 24 each manufactured home produced by the manufacturer in this state. The
 25 monitoring inspection fee shall be paid by the manufacturer to the secretary or
 26 the secretary's agent, who shall distribute the fees collected from all
 27 manufactured home manufacturers among the states approved and

1 conditionally approved by the secretary based on the number of new
2 manufactured homes whose first location after leaving the manufacturing
3 plant is on the premises of a distributor, retailer, or purchaser in that state, and
4 the extent of participation of the state in the joint team monitoring program
5 established under the National Manufactured Housing Construction and
6 Safety Standards Act of 1974, as amended.

7 (5) All revenues raised through the provisions of subsections (4)(a), (b), and (c), and
8 funds paid to the state by the secretary under the provisions of subsection (4)(d) of
9 this section shall be deposited in a trust and agency fund and shall be used solely for
10 the purpose of carrying out the provisions of KRS 227.550 to 227.660 and other
11 departmental responsibilities. No amount of such trust and agency fund shall lapse
12 at the end of any fiscal year.

13 (6) The licenses of retailers shall specify the location of the established place of
14 business and must be conspicuously displayed there. In case such location be
15 changed, the retailer shall notify the department~~{office}~~ of any change of location,
16 and the department~~{office}~~ shall endorse the change of location on the license
17 without charge if it be within the same municipality. A change of location to
18 another municipality or to a county which is not adjacent to the county where the
19 business is located shall require a new license.

20 (7) Every retailer licensed in accordance with the provisions of this section shall make
21 reports to the department~~{office}~~ at such intervals and showing such information as
22 the department~~{office}~~ may require.

23 (8) Each manufacturer, distributor of manufactured homes or mobile homes, and
24 retailer of manufactured or mobile homes shall establish and maintain such records,
25 make such reports, and provide such information as the department~~{office}~~ or the
26 secretary may reasonably require to be able to determine whether such
27 manufacturer, distributor, or retailer has acted or is acting in compliance with KRS

1 227.550 to 227.660 or the federal act and shall, upon request of a person duly
2 designated by the department~~{office}~~ or secretary, permit such person to inspect
3 appropriate books, papers, records, and documents relevant to determining whether
4 such manufacturer, distributor, or retailer has acted or is acting in compliance with
5 KRS 227.550 to 227.660 or the federal act.

6 ➔Section 421. KRS 227.625 is amended to read as follows:

7 (1) Before any license will be issued or renewed, the applicant shall file or have on file
8 with the department~~{office}~~ a liability insurance policy issued by an insurance
9 carrier authorized to transact insurance business within the Commonwealth of
10 Kentucky. The policy of insurance must be issued in the name of the applicant
11 licensee.

12 (2) The board shall by regulation establish the minimum amount of liability insurance
13 required herein.

14 (3) No insurance carrier issuing any policy filed with the department~~{office}~~ shall be
15 relieved from liability under the policy until after the expiration of fifteen (15) days'
16 notice to the department~~{office}~~ of an intention to cancel the policy, provided,
17 however, that a prior cancellation may be allowed in cases where one (1) policy is
18 substituted for another policy when the substituted policy is in force and effect prior
19 to the expiration of fifteen (15) days' notice to the department~~{office}~~ of an
20 intention to cancel the policy which is being substituted.

21 (4) Upon cancellation of any policy of insurance required by this section, all operating
22 rights granted by the license for which the said policy was filed, shall immediately
23 cease and the department~~{office}~~ shall have the authority to immediately require the
24 cessation of all operations conducted under the authority of the said license and to
25 require the surrender of all licenses, certificates, and seals previously issued
26 hereunder.

27 ➔Section 422. KRS 227.640 is amended to read as follows:

1 (1) The board or its designee may deny the application for a license, certification, or
 2 certificate of acceptability within thirty (30) days after receipt thereof by written
 3 notice to the applicant, stating the grounds for such denial.

4 (2) No license, certification, or certificate of acceptability shall be suspended or
 5 revoked by the board unless the licensee or certificate holder is afforded the
 6 opportunity for a hearing to be conducted in accordance with KRS Chapter 13B.

7 (3) Any manufacturer, certified installer, or licensed retailer who violates or fails to
 8 comply with KRS 227.550 to 227.660 or any administrative regulations
 9 promulgated thereunder shall be notified in writing setting forth facts describing the
 10 alleged violation and instructed to correct the violation, if it is correctable, within
 11 twenty (20) days. Should the manufacturer, certified installer, or retailer fail to
 12 make the necessary corrections within the specified time or if the violation is not
 13 correctable, the board may, after notice and hearing in accordance with KRS
 14 Chapter 13B, suspend or revoke any certificate of acceptability, certification, or
 15 license if it finds that:

16 (a) The manufacturer, certified installer, or retailer has failed to pay the fees
 17 authorized by KRS 227.550 to 227.660; or that

18 (b) The manufacturer, certified installer, or retailer, either knowingly or without
 19 the exercise of due care to prevent the same, has violated any provision of
 20 KRS 227.550 to 227.660 or any administrative regulation or order lawfully
 21 made pursuant to and within the authority of KRS 227.550 to 227.660; or that

22 (c) The manufacturer has shipped or imported into this state a manufactured
 23 home or mobile home to any person other than to a duly licensed retailer.

24 The ~~board~~office shall set out, through the promulgation of administrative
 25 regulations in accordance with the provisions of KRS Chapter 13A, and shall
 26 provide for a dispute resolution process which may be used prior to a formal
 27 hearing under KRS Chapter 13B. The dispute resolution process shall be

1 nonbinding on the licensee, certified installer, or manufacturer and shall be
 2 conducted after application for a KRS Chapter 13B hearing, but prior to the
 3 convening of the KRS Chapter 13B hearing.

- 4 (4) Any person aggrieved by any final order of the department~~[state fire marshal]~~ may
 5 appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B.

6 ➔Section 423. KRS 227.650 is amended to read as follows:

- 7 (1) The department~~[office]~~ is empowered to inspect all mobile homes which are not
 8 covered by the federal act and previously owned recreational vehicles for which it
 9 has issued a seal of approval.

- 10 (2) The board~~[office]~~ may establish and require such training programs in the concept,
 11 techniques, and inspection of manufactured homes, mobile homes, and previously
 12 owned recreational vehicles for the personnel of local governments, as the
 13 board~~[office]~~ considers necessary.

- 14 (3) The staff of the department~~[office]~~, upon showing proper credentials and in the
 15 discharge of their duties pursuant to KRS 227.550 to 227.660 or the federal act, is
 16 authorized with the consent of the manufacturer or by proper warrant to enter and
 17 inspect all factories, warehouses, or establishments in this state in which
 18 manufactured homes are manufactured or stored.

19 ➔Section 424. KRS 227.660 is amended to read as follows:

20 The department~~[office]~~, subject to the provisions of Chapter 18A and Chapter 64 of the
 21 Kentucky Revised Statutes, may set qualifications, employ, and fix the compensation of
 22 such state inspectors as the department~~[office]~~ deems necessary to carry out the functions
 23 of KRS 227.550 to 227.650. To carry out the provisions of KRS 227.550 to 227.650, the
 24 department~~[office]~~ may authorize the state inspectors to travel within or without the state
 25 for the purposes of inspecting the manufacturing facilities for manufactured homes or for
 26 any other purpose in connection with KRS 227.550 to 227.650.

27 ➔Section 425. KRS 227.710 is amended to read as follows:

1 No person, firm, copartnership, or corporation shall offer for sale, expose for sale, sell at
2 retail, keep with intent to sell, possess, use, or explode any fireworks, except as follows:

3 (1) In cities the chief of the fire department, or mayor, or similar official where there is
4 no fire department, and in counties outside of cities the county judge/executive, may
5 grant permits for supervised public displays of fireworks by municipalities, fair
6 associations, amusement parks, and other organizations or groups of individuals.
7 Every display shall be handled by a competent operator to be approved by the public
8 official by whom the permit is granted, and shall be of such character, and so
9 located, discharged or fired as in the opinion of the official, after proper inspection,
10 shall not be hazardous to property or endanger any person. Permits shall be filed
11 with the ~~the Office of~~ state fire marshal at least fifteen (15) days in advance of the
12 date of the display. After the privilege is granted, sales, possession, use, and
13 distribution of fireworks for the display shall be lawful for that purpose only. No
14 permit granted under this subsection shall be transferable. For the purposes of this
15 subsection, "public display of fireworks" shall include the use of pyrotechnic
16 devices or pyrotechnic materials before a proximate audience, whether indoors or
17 outdoors.

18 (2) The sale, at wholesale, of any fireworks for supervised displays by any resident
19 manufacturer, wholesaler, dealer, or jobber, in accordance with regulations of the
20 United States Bureau of Alcohol, Tobacco and Firearms, if the sale is to the person
21 holding a display permit as outlined in subsection (1) of this section. The permit
22 holder shall present the permit along with other verifiable identification at the time
23 of sale.

24 (3) The sale, at wholesale, of any kind of fireworks by any resident manufacturer,
25 wholesaler, dealer, or jobber, provided the fireworks are intended for shipment
26 directly out of state in accordance with regulations of the United States Department
27 of Transportation.

- 1 (4) The sale and use in emergency situations of pyrotechnic signaling devices and
- 2 distress signals for marine, aviation, and highway use.
- 3 (5) The use of fuses and railway torpedoes by railroads.
- 4 (6) The sale and use of blank cartridges for use in a show or theater or for signal or
- 5 ceremonial purpose in athletics or sports.
- 6 (7) The use of any pyrotechnic device by military organizations.
- 7 (8) The use of fireworks for agricultural purposes under the direct supervision of the
- 8 United States Department of the Interior or any equivalent or local agency.
- 9 (9) The sale of common fireworks as permitted pursuant to KRS 227.715.

10 ➔ Section 426. KRS 227.715 is amended to read as follows:

11 Except as provided in KRS 227.710, the common fireworks described in KRS 227.702(1)

12 may be offered for sale, sold at retail, or kept with the intent to sell, only if the following

13 requirements are met:

- 14 (1) Any person or business intending to sell common fireworks shall register annually
- 15 with the state fire ~~marshal~~~~[marshal's office]~~, ~~who~~~~[which]~~ may assess a fee of no
- 16 more than fifty dollars (\$50) for each site at which fireworks shall be sold. The
- 17 registration requirement under this section shall not apply to permanent business
- 18 establishments which are open year round and in which the sale of fireworks is
- 19 ancillary to the primary course of business;
- 20 (2) The annual registration required by subsection (1) of this section shall be received
- 21 by the state fire ~~marshal~~~~[marshal's office]~~ at least fifteen (15) days prior to offering
- 22 fireworks for sale at the site for which the registration is intended;
- 23 (3) Each site at which fireworks are offered for sale shall have its registration certificate
- 24 displayed in a conspicuous location at the site;
- 25 (4) Each site at which fireworks are offered for sale shall have a working fire
- 26 extinguisher at the site, in compliance with NFPA Pamphlet 10;
- 27 (5) No common fireworks item shall be offered for sale if it has as part of its device any

wings, fins, or other mechanism designed to cause the device to fly, or if it carries a cautionary label which includes in its description any of the following terms: "explosive," "emits flaming pellets," "flaming balls," "firecracker," "report," or "rocket;"

(6) No person or business shall give, offer for sale, or sell any common fireworks listed in KRS 227.702 to any person under sixteen (16) years of age;

(7) The state fire marshal may revoke the registration of any site which is in violation of a requirement of this section, or any other requirement provided pursuant to this chapter. If the violation renders any property especially susceptible to fire loss, and there is present such hazard to human life or limb that the public safety imperatively requires emergency action, the state fire marshal may take that action, as provided in KRS 227.330(6).

→ Section 427. KRS 227.800 is amended to read as follows:

As used in KRS 227.800 to 227.810, unless the context otherwise requires:

(1) "Department~~[Office]~~" means the Department~~[Office]~~ of Housing, Buildings and Construction;

(2) "Fountain" means all devices that artificially produce or contain a jet or stream of water;

(3) "Ground-fault circuit-interrupter" means a device intended for the protection of the general public that functions to deenergize a circuit or a portion thereof within an established period of time when a current to ground exceeds a predetermined value that is less than that required to operate the overcurrent protective device of the supply circuit;

(4) "Pool" means all swimming, wading, therapeutic, decorative, ornamental, display, and reflection pools; hot tubs; spas; and hydromassage bathtubs, whether permanently installed or storable; and

(5) "Public place" means any building, structure, or location that is accessible to the

1 general public for business, civic, educational, political, religious, recreational,
2 social, or travel purposes.

3 ➔Section 428. KRS 227.810 is amended to read as follows:

4 (1) A ground-fault circuit-interrupter shall be installed on all existing and new
5 fountains and pools that are located in a public place within the Commonwealth, in
6 accordance with standards set forth in the National Electrical Code adopted by
7 administrative regulations of the department~~{office}~~.

8 (2) A state or local government agency shall not promulgate an administrative
9 regulation or ordinance to exempt any fountain or pool located in a public place
10 from the required installation of a ground-fault circuit-interrupter, regardless of the
11 age of construction of the fountain or pool.

12 ➔Section 429. KRS 227A.010 is amended to read as follows:

13 As used in KRS 227A.010 to 227A.140, unless the context otherwise requires:

14 (1) "Authorized local licensing program" means any city, county, urban-county, charter
15 county, or consolidated local government electrician and electrical contractor
16 licensing program established by local ordinance for the purpose of licensing
17 electrical workers. "Authorized local licensing program" shall include a licensing
18 program established through a cooperative agreement between two (2) or more
19 counties;

20 (2) "Committee" means the Electrical Advisory Committee as described in KRS
21 227.530;

22 (3) "Department~~{Office}~~" means the Department~~{Office}~~ of Housing, Buildings and
23 Construction;

24 (4) "Electrical" pertains to the installation, alteration, or repair of wires and conduits for
25 the purpose of transmitting electricity, and the installation of fixtures and equipment
26 in connection therewith;

27 (5) "Electrical contractor" means any licensed individual, partnership, or corporation

1 that is licensed to engage in, offers to engage in, or advertises or holds itself out to
 2 be qualified to engage in designing, planning, superintending, contracting of, or
 3 assuming responsibility for the installation, alteration, or repair of any electrical
 4 wiring used for the purpose of furnishing heat, light, or power, and employs
 5 electrical workers to engage in this practice. If the electrical contractor is not a
 6 master electrician, the electrical contractor shall employ at least one (1) full-time
 7 master electrician; however, no master electrician shall act in this capacity for more
 8 than one (1) electrical contractor;

9 (6) "Electrician" means any person licensed by the department~~{office}~~ who is employed
 10 by an electrical contractor and is engaged in the construction, alteration, or repair of
 11 any electrical wiring used for the purpose of furnishing heat, light, or power;

12 (7) "Maintenance worker or maintenance engineer" means a person who is a regular,
 13 bona fide employee or agent of a property owner, property lessor, property
 14 management company, or firm that is not in the electrical business but has
 15 jurisdiction over the property where the routine maintenance of electrical systems is
 16 being performed;

17 (8) "Master electrician" means any individual licensed to assume responsible charge,
 18 supervision, or direction of an electrician engaged in the construction, installation,
 19 alteration, or repair of electrical wiring used to furnish heat, light, or power; and

20 (9) "Routine maintenance of electrical systems" means the routine and periodic
 21 servicing of electrical systems, including cleaning, inspecting, and making
 22 adjustments to ensure the proper operation and the removal or replacement of
 23 component parts. "Routine maintenance of electrical systems" does not include the
 24 installation of complete electrical systems.

25 ➔Section 430. KRS 227A.020 is amended to read as follows:

26 (1) A person who is not licensed as an electrical contractor shall not represent himself
 27 or herself to the public as an electrical contractor or use any terms, titles, or

1 abbreviations which express or imply that the person is a licensed electrical
2 contractor.

3 (2) A person who is not licensed as a master electrician shall not represent himself or
4 herself to the public as a master electrician or use any terms, titles, or abbreviations
5 which express or imply that the person is a licensed master electrician.

6 (3) A person who is not licensed as an electrician shall not represent himself or herself
7 to the public as an electrician or use any terms, titles, or abbreviations which
8 express or imply that the person is a licensed electrician.

9 (4) A person who is not licensed as an electrical contractor, electrician, or master
10 electrician shall not engage in any activities or perform any of the duties usually
11 performed by an electrical contractor, electrician, or master electrician unless the
12 unlicensed person is under the direct supervision of a licensed electrician or master
13 electrician who is present on the site where the work is being performed.

14 (5) An authorized local licensing program in existence on June 24, 2003, may contract
15 with the department~~{office}~~ to become an agent of the department~~{office}~~ for
16 purposes of the issuance and renewal of licenses issued pursuant to KRS 227A.010
17 to 227A.140. The department~~{office}~~ may also contract with local governments that
18 want to become authorized licensing programs.

19 (6) KRS 227A.010 to 227A.140 shall supersede all ordinances or regulations regulating
20 electricians, master electricians, and electrical contractors of any city, county,
21 urban-county, charter county, or consolidated local government. This provision
22 shall not affect city, county, urban-county, charter county, or consolidated local
23 government regulations relating to zoning requirements or occupational payroll
24 taxes pertaining to electricians, master electricians, and electrical contractors.

25 ➔Section 431. KRS 227A.040 is amended to read as follows:

26 (1) The department~~{office}~~, with assistance from the Electrical Advisory Committee,
27 shall administer and enforce the provisions of KRS 227A.010 to 227A.140 and

- 1 shall evaluate the qualifications of applicants for licensure.
- 2 (2) The department~~{office}~~ may issue subpoenas, examine witnesses, pay appropriate
3 witness fees, administer oaths, and investigate allegations of practices violating the
4 provisions of KRS 227A.010 to 227A.140 or the administrative regulations
5 promulgated under KRS 227A.010 to 227A.140 and KRS Chapter 13A.
- 6 (3) The department~~{office}~~ shall conduct hearings under KRS Chapter 13B and keep
7 records and minutes necessary to carry out the functions of KRS 227A.010 to
8 227A.140.
- 9 (4) The department~~{office}~~, with assistance from the Electrical Advisory Committee,
10 shall evaluate the qualifications of applicants and issue licenses to qualified
11 candidates.
- 12 (5) The department~~{office}~~ shall renew licenses.
- 13 (6) The department~~{office}~~ may:
- 14 (a) Refuse to issue or renew a license;
15 (b) Suspend or revoke a license;
16 (c) Impose supervisory or probationary conditions upon a licensee;
17 (d) Impose administrative disciplinary fines;
18 (e) Issue written reprimands or admonishments; and
19 (f) Take any combination of the actions permitted in this subsection.
- 20 (7) The department~~{office}~~ may seek injunctive relief in the Circuit Court of Franklin
21 County, in the county in which the violation occurred, or in the county where the
22 business of the accused is located to stop any unlawful practice in KRS 227A.010 to
23 227A.140 and administrative regulations promulgated thereunder. The
24 department~~{office}~~ may also seek injunctive relief for unlicensed persons who
25 inappropriately use the title "electrical contractor," "electrician," or "master
26 electrician."
- 27 (8) The department~~{office}~~, with comments and advice from the Electrical Advisory

Committee if required by KRS 198B.030(9) and (10), may promulgate administrative regulations to create a code of ethics and procedures governing the licensure of electrical contractors, electricians, and master electricians.

- (9) The department[office] may enter into reciprocal agreements with other states having licensure, certification, or registration qualifications and requirements substantially equal to those of this state.

→ Section 432. KRS 227A.050 is amended to read as follows:

- (1) All fees and other moneys received by the department[office] under the provisions of KRS 227A.010 to 227A.140 shall be deposited in the State Treasury to the credit of a revolving fund for use by the department[office] in administering the provisions of KRS 227A.010 to 227A.140.

- (2) No part of this revolving fund shall revert to the general funds of the Commonwealth.

- (3) An authorized local licensing program under KRS 227A.010 to 227A.140 shall negotiate with the department[office] the amount of the fees to be retained by the authorized local licensing program.

- (4) Funds for the initial administration of KRS 227A.010 to 227A.140, following June 24, 2003, and to the extent fee income is insufficient to meet actual costs as determined by the chief budget officer for the department[office], shall be borrowed from surplus trust and agency accounts of the department[office] and repaid without interest over no more than the succeeding two (2) fiscal years.

→ Section 433. KRS 227A.060 is amended to read as follows:

- (1) The department[office] shall issue a license as an "electrical contractor" to an applicant who meets the following requirements:

- (a) Has paid to the department[office] the application fee not to exceed two hundred dollars (\$200) and the appropriate examination fee, which shall not exceed the actual cost of examination;

1 (b) Has achieved a passing score, as set by the department{office}, on all portions
 2 of the examination required by the department{office}. The
 3 department{office} shall promulgate administrative regulations to specify who
 4 shall take the examination if the applicant is a business entity; and

5 (c) Has submitted proof that he or she has complied with workers' compensation
 6 and unemployment insurance laws and administrative regulations and has
 7 obtained a general liability insurance policy of not less than five hundred
 8 thousand dollars (\$500,000).

9 (2) The department{office} shall issue a license as a "master electrician" to an applicant
 10 who meets the following requirements:

11 (a) Has paid to the department{office} the application fee not to exceed one
 12 hundred dollars (\$100) and the appropriate examination fee not to exceed the
 13 actual cost of the examination;

14 (b) Has completed:

15 1. a. Six (6) years of verifiable experience in the electrical trade; and
 16 b. A training course in electrical work, acceptable to the
 17 department{office}, or an additional two (2) years of verifiable
 18 experience in the electrical trade; or

19 2. a. Five (5) years of verifiable experience in the electrical trade; and
 20 b. An associate's degree or diploma program in electrical technology
 21 at a college within the Kentucky Community and Technical
 22 College System after 1998; and

23 (c) Has achieved a passing score, as set by the department{office}, on all portions
 24 of the examination required by the department{office}.

25 (3) The department{office} shall issue a license as an "electrician" to an applicant who
 26 meets the following requirements:

27 (a) Has paid to the department{office} the application fee not to exceed fifty

dollars (\$50) and the appropriate examination fee not to exceed the actual cost of the examination;

(b) Has completed:

1. a. Four (4) years of verifiable experience in the electrical trade; and
- b. A training course in electrical work, acceptable to the department{office}, or an additional two (2) years of verifiable experience in the electrical trade; or
2. a. Three (3) years of verifiable experience in the electrical trade; and
- b. An associate's degree or diploma program in electrical technology at a college within the Kentucky Community and Technical College System after 1998; and

(c) Has achieved a passing score, as set by the department{office}, on all portions of the examination required by the department{office}.

→ Section 434. KRS 227A.070 is amended to read as follows:

Upon application to the department{office} and payment of all applicable fees, the department{office} shall license by endorsement an applicant who is registered, licensed, or certified in another state if the requirements for registration, licensing, or certification in the issuing state are substantially equal to the requirements for licensing in the Commonwealth of Kentucky and the applicant is in good standing in the issuing state. The department{office} shall license an applicant by endorsement only if the issuing state extends similar reciprocity to Kentucky citizens licensed under KRS 227A.010 to 227A.140.

→ Section 435. KRS 227A.090 is amended to read as follows:

(1) The department{office}, with advice from the Electrical Advisory Committee, shall select and approve an examination to be used in determining the competency of persons to be licensed under KRS 227A.010 to 227A.140. Examinations selected and approved for each level of licensing shall be nationally recognized

1 examinations which have been determined through proper validation techniques to
2 measure successfully an individual's competency to perform the licensed practice.

3 (2) The department~~{office}~~ shall offer the examinations on a regularly scheduled basis
4 in localities determined by the committee. The department~~{office}~~ shall offer the
5 examinations through any authorized local licensing program.

6 (3) The department~~{office}~~ may contract with an outside entity or testing service for the
7 administration of examinations required for licensure.

8 ➔Section 436. KRS 227A.100 is amended to read as follows:

9 (1) Each licensee licensed under the provisions of KRS 227A.010 to 227A.140 shall
10 annually, on or before the last day of the licensee's birth month, pay to the
11 department~~{office}~~ a renewal fee as established in administrative regulations
12 promulgated by the department~~{office}~~.

13 (2) A sixty (60) day grace period shall be allowed after the anniversary date of the
14 license during which time a licensee may continue to practice and may renew his or
15 her license upon payment of the renewal fee plus a late renewal fee as promulgated
16 by administrative regulation of the department~~{office}~~.

17 (3) A license not renewed before the end of the sixty (60) day grace period shall
18 terminate based on the failure of the licensee to renew in a timely manner. Upon
19 termination, the licensee is no longer eligible to practice in the Commonwealth.

20 (4) After the sixty (60) day grace period, a former licensee with a terminated license
21 may have the license reinstated upon payment of the renewal fee plus a
22 reinstatement fee as promulgated by administrative regulation of the
23 department~~{office}~~. An applicant for reinstatement after termination of the license
24 shall not be required to submit to any examination as a condition for reinstatement,
25 if the reinstatement application is made within three (3) years from the date of
26 termination.

27 (5) A suspended license is subject to expiration and termination and shall be renewed

1 as provided in this section. Renewal shall not entitle the licensee to engage in the
 2 practice until the suspension has ended or is otherwise removed by the
 3 department~~{office}~~ and the right to practice is restored by the department~~{office}~~.

4 (6) A revoked license is subject to expiration or termination but may not be renewed. If
 5 it is reinstated, the former licensee shall pay the reinstatement fee as promulgated by
 6 administrative regulations under subsection (4) of this section and the renewal fee
 7 as promulgated by administrative regulations under subsection (1) of this section.

8 (7) The department~~{office}~~ shall require an applicant for renewal or reinstatement of a
 9 license to show evidence of completing at least six (6) hours of continuing
 10 education provided by the National Electrical Contractors Association, the
 11 Associated Builders and Contractors, the International Brotherhood of Electrical
 12 Workers, the Associated General Contractors, the International Association of
 13 Electrical Inspectors, the Independent Electrical Contractors Association, the
 14 Kentucky Department~~{Office}~~ of Housing, Buildings and Construction, or other
 15 provider of instruction approved by the department~~{office}~~. The department~~{office}~~
 16 shall promulgate administrative regulations establishing the content of the programs
 17 and the qualifications of the providers.

18 (8) The department~~{office}~~ shall require, where applicable, that an applicant for
 19 renewal or reinstatement of a license submit proof that the applicant has complied
 20 with workers' compensation and unemployment insurance laws and regulations and
 21 has obtained a general liability insurance policy of not less than five hundred
 22 thousand dollars (\$500,000).

23 (9) The department~~{office}~~ may, through the promulgation of administrative
 24 regulations:

25 (a) Establish an inactive license for licensees who are not actively engaging in the
 26 electrical business but wish to maintain their license;

27 (b) Reduce license and renewal fees for inactive licensees; and

(c) Waive the requirements established in subsection (8) of this section for inactive licensees.

➔Section 437. KRS 227A.110 is amended to read as follows:

(1) The department{office} may, following a hearing pursuant to KRS Chapter 13B, impose sanctions specified in KRS 227A.040 upon proof that the licensee has:

(a) Misrepresented or concealed a material fact in obtaining a license, or in the reinstatement thereof;

(b) Been incompetent or negligent in the practice of performing electrical work;

(c) Failed to comply with an order issued by the department{office} or an assurance of voluntary compliance; or

(d) Violated any provisions of KRS 227A.010 to 227A.140 and administrative regulations promulgated thereunder.

(2) One (1) year from the date of a revocation, any former licensee whose license has been revoked may petition the department{office} for reinstatement. The department{office} shall investigate the petition and may reinstate the license upon a finding that the applicant has complied with any terms prescribed by the department{office} and is again able to competently engage in the practice of performing electrical work.

(3) At any time during the investigative or hearing processes, the department{office} may enter into an agreed order or accept an assurance of voluntary compliance with the license holder which effectively deals with the complaint.

(4) The department{office} may reconsider, modify, or reverse its probations, suspensions, or other disciplinary actions.

➔Section 438. KRS 227A.120 is amended to read as follows:

Any party aggrieved by a disciplinary action of the department{office} may bring an action in the Circuit Court of Franklin County under the provisions of KRS Chapter 13B.

➔Section 439. KRS 227A.140 is amended to read as follows:

1 (1) A master electrician who ceases to be associated with the electrical contractor and is
 2 the representative by which the licensed electrical contractor qualifies shall
 3 immediately report his or her disassociation to the department~~{office}~~ or the
 4 authorized local licensing program. The master electrician shall be responsible for
 5 all work done under his or her license until the department~~{office}~~ or the authorized
 6 local licensing program is notified by the master electrician that he or she is no
 7 longer associated with the electrical contractor.

8 (2) If the holder of any electrical license ceases to be a part of the business relying upon
 9 the holder's license for its right to remain in business, the business shall employ a
 10 licensed person prior to the continuance of any business activity or within thirty
 11 (30) days, whichever comes first.

12 ➔Section 440. KRS 227A.150 is amended to read as follows:

13 Nothing in KRS 227A.010 to 227A.140 shall apply to low-voltage, power-limited
 14 installations for control or coordination of interconnected devices separated from a power
 15 source by a Class 2 or Class 3 transformer installed by a low-voltage installer certificate
 16 holder. The department~~{office}~~ shall set the standards for experience and testing for
 17 issuance of a low-voltage installer certificate by administrative regulation and may charge
 18 a fee to be set by the department~~{office}~~ by administrative regulation but not to exceed
 19 the actual cost of issuance of the certificate.

20 ➔Section 441. KRS 229.151 is amended to read as follows:

21 (1) The Kentucky Boxing and Wrestling Authority is hereby created and established as
 22 an agency of state government charged with the responsibility for regulatory
 23 oversight and the establishment of sound policies and procedures governing the
 24 conduct of boxing, wrestling, and other full contact competitive bouts within the
 25 Commonwealth of Kentucky. The authority shall be attached to the ~~{Environmental~~
 26 ~~and }~~Public Protection Cabinet~~[, Department of Public Protection,]~~ for
 27 administrative purposes.

1 (2) The authority shall consist of five (5) members appointed by the Governor.

2 (a) One (1) member shall be the secretary of the ~~{Environmental and }~~Public
3 Protection Cabinet, or the secretary's designee, who shall serve as an ex
4 officio voting member;

5 (b) One (1) member shall be a medical doctor; and

6 (c) Three (3) members shall be appointed from the state at large, one (1) of whom
7 shall have no financial interest in the business or industry regulated.

8 One (1) member shall be appointed to serve as the authority's chairperson. The
9 Governor shall further designate a second member to serve as vice chair with
10 authority to act in the absence of the chair. A majority of the members of the
11 authority shall constitute a quorum for the transaction of business.

12 (3) The appointed members of the authority shall serve for a term of three (3) years at
13 the pleasure of the Governor, with initial terms staggered. Any member appointed
14 to fill a vacancy occurring other than by expiration of a term shall be appointed for
15 the remainder of the unexpired term.

16 (4) Members of the authority shall receive one hundred dollars (\$100) per day for each
17 meeting attended and shall be reimbursed for all expenses paid or incurred in the
18 discharge of official business.

19 ➔Section 442. KRS 229.155 is amended to read as follows:

20 (1) To carry out the functions relating to the authority's duties and responsibilities and
21 to afford the full experience and resources of the ~~{Environmental and }~~Public
22 Protection Cabinet, after revenue of five hundred thousand dollars (\$500,000) is
23 generated in two (2) consecutive fiscal years by the authority, the Governor may
24 appoint an executive director who shall serve at the pleasure of the Governor. The
25 Governor shall set the qualifications and salary for the position of executive director
26 under the provisions of KRS 64.640. The secretary~~{commissioner}~~ of the
27 ~~{Department of }~~Public Protection Cabinet shall act as executive director until the

1 fiscal requirement is met.

2 (2) The executive director shall employ sufficient regulatory staff for the authority that
3 shall be responsible for the day-to-day operations of the authority, including but not
4 limited to the following:

- 5 (a) Complying with regulations;
- 6 (b) Issuing licenses and permits;
- 7 (c) Establishing appropriate organizational structures;
- 8 (d) Carrying out policy and program directives of the authority; and
- 9 (e) Performing all other duties and responsibilities as assigned.

10 (3) With approval of the authority, the executive director and regulatory staff may enter
11 into agreements with any state agency or political subdivision of the state, any
12 postsecondary education institution, or any other person or entity to enlist assistance
13 to implement the duties and responsibilities of the authority.

14 ➔ Section 443. KRS 230.210 is amended to read as follows:

15 As used in this chapter, unless the context requires otherwise:

- 16 (1) "Association" means any person licensed by the Kentucky Horse Racing
17 Commission~~[Authority]~~ under KRS 230.300 and engaged in the conduct of a
18 recognized horse race meeting;
- 19 (2) "Racing Commission~~[Authority]~~" means the Kentucky Horse Racing Authority;
- 20 (3) "Thoroughbred race or thoroughbred racing" means a form of horse racing in which
21 each horse participating in the race is a thoroughbred, (i.e., meeting the
22 requirements of and registered with The Jockey Club of New York) and is mounted
23 by a jockey;
- 24 (4) "Harness race" or "harness racing" means trotting and pacing races of the
25 standardbred horses;
- 26 (5) "Appaloosa race or Appaloosa racing" means that form of horse racing in which
27 each horse participating in the race is registered with the Appaloosa Horse Club of

- 1 Moscow, Idaho, and is mounted by a jockey;
- 2 (6) "Horse race meeting" means horse racing run at an association licensed and
3 regulated by the Kentucky Horse Racing Commission~~[Authority]~~, and may include
4 thoroughbred, harness, and quarter horse racing;
- 5 (7) "Quarter horse" means a horse that is registered with the American Quarter Horse
6 Association of Amarillo, Texas;
- 7 (8) "Arabian" means a horse that is registered with the Arabian Horse Registry of
8 Denver, Colorado;
- 9 (9) "Track" means any association duly licensed by the Kentucky Horse Racing
10 Commission~~[Authority]~~ to conduct horse racing. "Track" shall include any facility
11 or real property that is owned, leased, or purchased by a track within the same
12 geographic area within a sixty (60) mile radius of a track but not contiguous to track
13 premises, upon racing commission~~[authority]~~ approval, and provided the
14 noncontiguous property is not within a sixty (60) mile radius of another licensed
15 track premise where live racing is conducted and not within a forty (40) mile radius
16 of a simulcast facility, unless any affected track or simulcast facility agrees in
17 writing to permit a noncontiguous facility within the protected geographic area;
- 18 (10) "Simulcast facility" means any facility approved pursuant to the provisions of KRS
19 230.380 to simulcast racing and conduct pari-mutuel wagering;
- 20 (11) "Simulcasting" means the telecast of live audio and visual signals of horse races for
21 the purpose of pari-mutuel wagering;
- 22 (12) "Intertrack wagering" means pari-mutuel wagering on simulcast horse races from a
23 host track by patrons at a receiving track;
- 24 (13) "Interstate wagering" means pari-mutuel wagering on simulcast horse races from a
25 track located in another state or foreign country by patrons at a receiving track or
26 simulcast facility;
- 27 (14) "Host track" means the track conducting racing and offering its racing for intertrack

1 wagering, or, in the case of interstate wagering, means the Kentucky track
 2 conducting racing and offering simulcasts of races conducted in other states or
 3 foreign countries;

4 (15) "Receiving track" means a track where simulcasts are displayed for wagering
 5 purposes. A track that submits an application for intertrack wagering shall meet all
 6 the regulatory criteria for granting an association license of the same breed as the
 7 host track, and shall have a heated and air-conditioned facility that meets all state
 8 and local life safety code requirements and seats a number of patrons at least equal
 9 to the average daily attendance for intertrack wagering on the requested breed in the
 10 county in which the track is located during the immediately preceding calendar year;

11 (16) "Telephone account wagering" means a form of pari-mutuel wagering where an
 12 individual may deposit money in an account at a track and may place a wager by
 13 direct telephone call or by communication through other electronic media owned by
 14 the holder of the account to the track;

15 (17) "Principal" means any of the following individuals associated with a partnership,
 16 trust, association, limited liability company, or corporation that is licensed to
 17 conduct a horse race meeting or an applicant for a license to conduct a horse race
 18 meeting:

19 (a) The chairman and all members of the board of directors of a corporation;

20 (b) All partners of a partnership and all participating members of a limited
 21 liability company;

22 (c) All trustees and trust beneficiaries of an association;

23 (d) The president or chief executive officer and all other officers, managers, and
 24 employees who have policy-making or fiduciary responsibility within the
 25 organization;

26 (e) All stockholders or other individuals who own, hold, or control, either directly
 27 or indirectly, five percent (5%) or more of stock or financial interest in the

1 collective organization; and

2 (f) Any other employee, agent, guardian, personal representative, or lender or
3 holder of indebtedness who has the power to exercise a significant influence
4 over the applicant's or licensee's operation;

5 (18) "Kentucky Quarter Horse Purse Program" means a purse program established to
6 receive funds from the racing commission[authority] for purse programs
7 established in KRS 230.3771(4) to supplement purses for quarter horse races. The
8 purse program shall be administered by the Kentucky Quarter Horse Racing
9 Association;

10 (19) "Advance deposit account wagering" means a form of pari-mutuel wagering in
11 which an individual may establish an account with a person or entity licensed by the
12 racing commission[authority], and may place a pari-mutuel wager through that
13 account that is permitted by law;

14 (20) "Advance deposit account wagering licensee" means a person or entity licensed by
15 the racing commission[authority] to conduct advance deposit account wagering and
16 accept deposits and wagers, issue a receipt or other confirmation to the account
17 holder evidencing such deposits and wagers, and transfer credits and debits to and
18 from accounts; and

19 (21) "Secondary pari-mutuel organization" or "SPMO" means an advance deposit
20 account wagering licensee, a hub as defined in KRS 230.775, or any entity other
21 than a licensed association or simulcast facility that offers and accepts pari-mutuel
22 wagers. "SPMO" includes any off-track wagering system or advance deposit
23 account wagering system, regardless of whether the off-track or advance deposit
24 account wagering system is affiliated with a licensed association.

25 ➔Section 444. KRS 230.215 is amended to read as follows:

26 (1) It is the policy of the Commonwealth of Kentucky, in furtherance of its
27 responsibility to foster and to encourage legitimate occupations and industries in the

1 Commonwealth and to promote and to conserve the public health, safety, and
2 welfare, and it is hereby declared the intent of the Commonwealth to foster and to
3 encourage the horse breeding industry within the Commonwealth and to encourage
4 the improvement of the breeds of horses. Further, it is the policy and intent of the
5 Commonwealth to foster and to encourage the business of legitimate horse racing
6 with pari-mutuel wagering thereon in the Commonwealth on the highest possible
7 plane. Further, it hereby is declared the policy and intent of the Commonwealth that
8 all racing not licensed under this chapter is a public nuisance and may be enjoined
9 as such. Further, it is hereby declared the policy and intent of the Commonwealth
10 that the conduct of horse racing, or the participation in any way in horse racing, or
11 the entrance to or presence where horse racing is conducted, is a privilege and not a
12 personal right; and that this privilege may be granted or denied by the racing
13 commission[authority] or its duly approved representatives acting in its behalf.

- 14 (2) It is hereby declared the purpose and intent of this chapter in the interest of the
15 public health, safety, and welfare, to vest in the racing commission[authority]
16 forceful control of horse racing in the Commonwealth with plenary power to
17 promulgate administrative regulations prescribing conditions under which all
18 legitimate horse racing and wagering thereon is conducted in the Commonwealth so
19 as to encourage the improvement of the breeds of horses in the Commonwealth, to
20 regulate and maintain horse racing at horse race meetings in the Commonwealth of
21 the highest quality and free of any corrupt, incompetent, dishonest, or unprincipled
22 horse racing practices, and to regulate and maintain horse racing at race meetings in
23 the Commonwealth so as to dissipate any cloud of association with the undesirable
24 and maintain the appearance as well as the fact of complete honesty and integrity of
25 horse racing in the Commonwealth. In addition to the general powers and duties
26 vested in the racing commission[authority] by this chapter, it is the intent hereby to
27 vest in the racing commission[authority] the power to eject or exclude from

1 association grounds or any part thereof any person, licensed or unlicensed, whose
 2 conduct or reputation is such that his presence on association grounds may, in the
 3 opinion of the *racine commission*~~[authority]~~, reflect on the honesty and integrity of
 4 horse racing or interfere with the orderly conduct of horse racing.

5 ➔Section 445. KRS 230.218 is amended to read as follows:

6 (1) There is established, under the jurisdiction of the Kentucky Horse Racing
 7 *Commission*~~[Authority]~~, the backside improvement fund. This revolving fund shall
 8 consist of money allocated to the fund under the provisions of KRS 230.3615,
 9 together with any other money which may be contributed to or allocated to the fund
 10 from all other sources. Money to the credit of the backside improvement fund at the
 11 end of each fiscal year shall not lapse but shall be carried forward in the fund to the
 12 succeeding fiscal year. The Kentucky Horse Racing *Commission*~~[Authority]~~ may
 13 invest any and all funds received by the fund and interest earned by the investment
 14 of said funds in types of investments appropriate to the investment needs of the fund
 15 after having considered the financial return on authorized investment alternatives,
 16 the financial safety of investment alternatives and the impact of any authorized
 17 investments on the state's economy. The *racine commission*~~[authority]~~ shall review
 18 the status of the fund investments quarterly and report its findings to the Finance
 19 and Administration Cabinet and the Legislative Research Commission.

20 (2) The purpose of the fund shall be to improve the backside of thoroughbred racing
 21 associations averaging one million two hundred thousand dollars (\$1,200,000) or
 22 less pari-mutuel handle per racing day on live racing. The Kentucky Horse Racing
 23 *Commission*~~[Authority]~~ shall use the backside improvement fund to promote,
 24 enhance, and improve the conditions of the backside of eligible racing associations.
 25 Conditions considered shall include but not be limited to the living and working
 26 quarters of backside employees.

27 (3) The Kentucky Horse Racing *Commission*~~[Authority]~~ shall promulgate

1 administrative regulations as may be necessary to carry out the provisions and
2 purposes of this section.

3 ➔Section 446. KRS 230.225 is amended to read as follows:

4 (1) The Kentucky Horse Racing Commission~~[Authority]~~ is created as an independent
5 agency of state government to regulate the conduct of horse racing and pari-mutuel
6 wagering on horse racing, and related activities within the Commonwealth of
7 Kentucky. The racing commission~~[authority]~~ shall be attached to the
8 ~~[Environmental and]~~Public Protection Cabinet for administrative purposes.

9 (2) The Kentucky Horse Racing Commission~~[Authority]~~ shall consist of
10 fifteen(15)~~[thirteen (13)]~~ members appointed by the Governor, with the secretaries
11 of the ~~[Environmental and]~~Public Protection Cabinet, Tourism, Arts and Heritage
12 Cabinet, and Economic Development Cabinet serving as ex officio, nonvoting
13 members. Two (2) members shall have no financial interest in the business or
14 industry regulated. The members of the racing commission~~[authority]~~ shall be
15 appointed to serve for a term of three (3) years~~[except, of the members initially~~
16 ~~appointed, four (4) shall serve for a term of three (3) years, five (5) shall serve for a~~
17 ~~term of two (2) years, and four (4) shall serve for a term of one (1) year]~~. Any
18 member appointed to fill a vacancy occurring other than by expiration of a term
19 shall be appointed for the remainder of the unexpired term. In making
20 appointments, the Governor may consider members broadly representative of the
21 thoroughbred industry and members broadly representative of the standardbred,
22 quarter horse, Appaloosa, or Arabian industries. The Governor may also consider
23 recommendations from the Kentucky Thoroughbred Owners and Breeders, Inc., the
24 Kentucky Division of the Horsemen's Benevolent and Protective Association, the
25 Kentucky Harness Horsemen's Association, and other interested organizations.

26 (3) Members of the racing commission~~[authority]~~ shall receive one hundred dollars
27 (\$100)~~[fifty dollars (\$50)]~~ per day for each meeting attended and shall be

1 reimbursed for all expenses paid or incurred in the discharge of official business.

2 The Governor shall appoint one (1) member of the *racing commission*[authority] to
 3 serve as its chairperson who shall serve at the pleasure of the Governor. The
 4 Governor shall further designate a second member to serve as vice chair with
 5 authority to act in the absence of the chairperson. Before entering upon the
 6 discharge of their duties, all members of the Kentucky Horse Racing
 7 *Commission*[Authority] shall take the constitutional oath of office.

8 (4) The *racing commission*[authority] shall establish and maintain a general office for
 9 the transaction of its business and may in its discretion establish a branch office or
 10 offices. The *racing commission*[authority] may hold meetings at any of its offices
 11 or at any other place when the convenience of the *racing commission*[authority]
 12 requires. All meetings of the *racing commission*[authority] shall be open and
 13 public, and all persons shall be permitted to attend meetings. A majority of the
 14 *voting members of the racing commission*[authority] shall constitute a quorum for
 15 the transaction of its business or exercise of any of its powers.

16 (5) ~~The duly promulgated administrative regulations of the Kentucky Horse Racing~~
 17 ~~Authority, in effect as of January 6, 2004, shall remain in effect as the initial~~
 18 ~~regulations of the Kentucky Horse Racing Authority until revoked or modified by~~
 19 ~~the authority.~~

20 (6) ~~All licenses approved by, and dates awarded by, the Kentucky Horse Racing~~
 21 ~~Authority shall remain in effect through December 31, 2004.~~

22 (7) Except as otherwise provided, the *racing commission*[authority] shall be
 23 responsible for the following:

24 (a) Developing *and implementing programs designed to ensure the safety and*
 25 *well-being of horses, jockeys, and drivers*~~[programs and procedures for~~
 26 ~~oversight and regulation of horse racing matters, including but not limited to~~
 27 ~~race-day medications];~~

- 1 (b) Developing programs and procedures that will aggressively fulfill its
 2 oversight and regulatory role on such matters as medical practices and
 3 integrity issues~~[Recommending tax incentives and other options to promote~~
 4 ~~the strength and growth of the thoroughbred industry and to preserve the~~
 5 ~~economic viability of Kentucky's horse farms];~~
- 6 (c) Recommending tax incentives and implementing incentive programs to
 7 ensure the strength and growth of the equine industry~~[Designing and~~
 8 ~~implementing programs that strengthen the ties between Kentucky's horse~~
 9 ~~industry and the state's universities, with the goal of increasing the horse~~
 10 ~~industry's impact on the state's economy];~~
- 11 (d) Designing and implementing programs that strengthen the ties between
 12 Kentucky's horse industry and the state's universities, with the goal of
 13 significantly increasing the economic impact of the horse industry on
 14 Kentucky's economy, improving research for the purpose of promoting the
 15 enhanced health and welfare of the horse, and other related industry
 16 issues~~[Developing and supporting programs which ensure that Kentucky~~
 17 ~~remains a national leader in equine research]; and~~
- 18 (e) Developing and supporting programs which ensure that Kentucky remains
 19 in the forefront of equine research~~[implementing programs that promote~~
 20 ~~Kentucky's horse and tourism industry].~~

21 ➔Section 447. KRS 230.230 is amended to read as follows:

- 22 (1) The Governor shall appoint an executive director who shall serve at the pleasure of
 23 the Governor. The Governor shall set the qualifications and salary for the position
 24 of executive director pursuant to KRS 64.640. The executive director shall possess
 25 the powers and perform the duties imposed upon him by the Governor, and other
 26 duties as the racing commission~~[authority]~~ may direct or prescribe. The executive
 27 director shall:

- 1 (a) Be responsible for the day-to-day operations of the racing
- 2 commission{authority};
- 3 (b) Set up appropriate organizational structures and personnel policies for
- 4 approval by the racing commission{authority};
- 5 (c) Appoint all staff;
- 6 (d) Prepare annual reports of the racing commission's{authority's} program of
- 7 work;
- 8 (e) Carry out policy and program directives of the racing commission{authority};
- 9 (f) Prepare and submit to the racing commission{authority} for its approval the
- 10 proposed biennial budget of the racing commission{authority}; and
- 11 (g) Perform all other duties and responsibilities assigned by law.

12 The executive director shall cause to be kept a full record of all proceedings before
 13 the racing commission{authority} and shall preserve at its general office all books,
 14 maps, records, documents, licenses, and other papers of the racing
 15 commission{authority}. All records of the racing commission{authority} shall be
 16 open to inspection by the public during regular office hours. With approval of the
 17 racing commission{authority}, the executive director may enter into agreements
 18 with any state agency or political subdivision of the state, any postsecondary
 19 education institution, or any other person or entity to enlist assistance to implement
 20 the duties and responsibilities of the racing commission{authority}.

- 21 (2) The executive director of the racing commission{authority} may employ, dismiss,
- 22 or take other personnel action concerning an assistant executive director,
- 23 stenographers, clerks, and other personnel as he or she may deem necessary to
- 24 efficiently operate the racing commission's{authority's} general office or any
- 25 branch thereof. The executive director of the racing commission{authority} shall fix
- 26 the compensation of all employees. Any member of the racing
- 27 commission{authority} or any employee referred to in this section shall be

1 reimbursed for expenses paid or incurred in the discharge of official business when
2 approved by the executive director of the *rac*ing *com*mission[authority]. The
3 compensation of the employees referred to in this section, except for the executive
4 director, together with reimbursement of expenses incurred by employees, a
5 member of the *rac*ing *com*mission[authority], or the executive director, shall be
6 paid from *rac*ing *com*mission[authority] funds.

7 ➔Section 448. KRS 230.240 is amended to read as follows:

- 8 (1) In addition to the employees referred to in KRS 230.230, the executive director of
9 the *rac*ing *com*mission[authority] may employ, dismiss, or take other personnel
10 action and determine the reasonable compensation of stewards, supervisors of
11 mutuels, veterinarians, inspectors, accountants, security officers, and other
12 employees deemed by the executive director to be essential at or in connection with
13 any horse race meeting and in the best interest of racing. Three (3) thoroughbred
14 stewards shall be employed at each thoroughbred race meeting. Two (2) stewards
15 shall be employed and compensated by the Commonwealth, subject to
16 reimbursement by the racing associations pursuant to subsection (3) of this section.
17 One (1) thoroughbred steward shall be employed and compensated by the racing
18 association hosting the race meeting. Three (3) standardbred judges shall be
19 employed at each standardbred race meeting. Two (2) standardbred judges shall be
20 employed and compensated by the Commonwealth, subject to reimbursement by the
21 racing associations pursuant to subsection (3) of this section. One (1) standardbred
22 judge shall be employed and compensated by the racing association hosting the race
23 meeting. The security officers shall be peace officers and conservators of the peace
24 on *rac*ing *com*mission[authority] property and at all race tracks and grounds in the
25 Commonwealth and shall possess all the common law and statutory powers and
26 privileges now available or hereafter made available to sheriffs, constables, and
27 police officers for the purpose of enforcing all laws relating directly or indirectly to

1 the conduct of horse racing and pari-mutuel wagering thereon, or the enforcement
2 of laws relating to the protection of persons or property on premises licensed by the
3 *racing commission*[authority]. The *racing commission*[authority], for the purpose
4 of maintaining integrity and honesty in racing, shall prescribe by administrative
5 regulation the powers and duties of the persons employed under this section and
6 qualifications necessary to competently perform their duties. In addition, the *racing*
7 *commission*[authority] shall be responsible for seeing that racing officials employed
8 under the provisions of this section have adequate training to perform their duties in
9 a competent manner.

10 (2) The *racing commission*[authority] shall promulgate administrative regulations for
11 effectively preventing the use of improper devices, and restricting or prohibiting the
12 use and administration of drugs or stimulants or other improper acts to horses prior
13 to the horse participating in a race. The *racing commission*[authority] may acquire,
14 operate, and maintain, or contract for the maintenance and operation of, a testing
15 laboratory and related facilities, for the purpose of saliva, urine, or other tests, and
16 to purchase supplies and equipment for and in connection with the laboratory or
17 testing processes. The expense of the laboratory or other testing processes, whether
18 furnished by contract or otherwise, together with all supplies and equipment used in
19 connection therewith, shall be paid by the various associations licensed under this
20 chapter in the manner and in proportions as the *racing commission*[authority] shall
21 by administrative regulation provide.

22 (3) The compensation of the employees referred to in this section shall be paid by the
23 licensee conducting the horse race meeting in connection with which the employees
24 are utilized or employed. The salary of the executive director to the *racing*
25 *commission*[authority] shall be prorated among and paid by the various associations
26 licensed under this chapter in the manner as the *racing commission*[authority] shall,
27 by administrative regulation, provide. Except for the thoroughbred steward and the

1 standardbred judge authorized in subsection (1) of this section, the employees
 2 referred to in this section shall be deemed employees of the *rac*
 3 *commission*[authority], and are paid by the licensee or association for convenience
 4 only.

- 5 (4) Each person, as a condition precedent to the privilege of receiving a license under
 6 this chapter to conduct a horse race meeting, shall be deemed to have agreed to pay
 7 expenses and compensation as provided in this section and as may be actually and
 8 reasonably incurred.

9 ➔Section 449. KRS 230.250 is amended to read as follows:

10 When requested by the *rac*
 11 or an assistant Attorney General as he or she may designate, shall, without additional
 12 compensation, advise the *rac*
 13 proceedings.

14 ➔Section 450. KRS 230.260 is amended to read as follows:

15 The *rac*
 16 breeds of horses, shall have all powers necessary and proper to carry out fully and
 17 effectually the provisions of this chapter including, but without limitation, the following:

- 18 (1) The *rac*
 19 all horse race meetings in this Commonwealth and over all associations and all
 20 persons on association grounds and may eject or exclude therefrom or any part
 21 thereof, any person, licensed or unlicensed, whose conduct or reputation is such that
 22 his presence on association grounds may, in the opinion of the *rac*
 23 *commission*[authority], reflect on the honesty and integrity of horse racing or
 24 interfere with the orderly conduct of horse racing or racing at horse race meetings;
 25 provided, however, no persons shall be excluded or ejected from association
 26 grounds solely on the ground of race, color, creed, national origin, ancestry, or sex;

- 27 (2) The *rac*

1 offers and accepts pari-mutuel wagers on races conducted at any racing association
2 within the Commonwealth. An SPMO under the jurisdiction of the **racing**
3 **commission**~~[authority]~~ shall be licensed by the **racing commission**~~[authority]~~, and
4 the **racing commission**~~[authority]~~ may impose a license fee on an SPMO not to
5 exceed ten thousand dollars (\$10,000) annually. The **racing commission**~~[authority]~~
6 shall, by administrative regulation promulgated in accordance with KRS Chapter
7 13A, establish conditions and procedures for the licensing of SPMOs, and a fee
8 schedule for applications for licensure;

9 (3) The **racing commission**~~[authority]~~ is vested with jurisdiction over any totalisator
10 company that provides totalisator services to a racing association located in the
11 Commonwealth. A totalisator company under the jurisdiction of the **racing**
12 **commission**~~[authority]~~ shall be licensed by the **racing commission**~~[authority]~~,
13 regardless of whether a totalisator company is located in the Commonwealth or
14 operates from a location or locations outside of the Commonwealth, and the **racing**
15 **commission**~~[authority]~~ may impose a license fee on a totalisator company. The
16 **racing commission**~~[authority]~~ shall, by administrative regulation promulgated in
17 accordance with KRS Chapter 13A, establish conditions and procedures for the
18 licensing of totalisator companies, and a fee schedule for applications for licensure;

19 (4) The **racing commission**~~[authority]~~ is vested with jurisdiction over any
20 manufacturer, wholesaler, distributor, or vendor of any equine drug, medication,
21 therapeutic substance, or metabolic derivative which is purchased by or delivered to
22 a licensee or other person participating in Kentucky horse racing by means of the
23 Internet, mail delivery, in-person delivery, or other means;

24 (5) The **racing commission**~~[authority]~~ is vested with jurisdiction over any horse
25 training center or facility in the Commonwealth that records official timed workouts
26 for publication;

27 (6) The **racing commission**~~[authority]~~ may require an applicant for a license under

1 subsections (2) and (3) of this section to submit to a background check of the
2 applicant, or of any individual or organization associated with the applicant. An
3 applicant shall be required to reimburse the *racing commission*[authority] for the
4 cost of any background check conducted;

5 (7) The *racing commission*[authority], its representatives and employees, may visit,
6 investigate and have free access to the office, track, facilities, or other places of
7 business of any licensee, or any person owning a horse or performing services
8 regulated by this chapter on a horse registered to participate in a breeders incentive
9 fund under the jurisdiction of the *racing commission*[authority];

10 (8) The *racing commission*[authority] shall have full authority to prescribe necessary
11 and reasonable administrative regulations and conditions under which horse racing
12 at a horse race meeting shall be conducted in this state and to fix and regulate the
13 minimum amount of purses, stakes, or awards to be offered for the conduct of any
14 horse race meeting;

15 (9) Applications for licenses shall be made in the form, in the manner, and contain
16 information as the *racing commission*[authority] may, by administrative regulation,
17 require. Fees for all licenses issued under KRS 230.310 shall be prescribed by and
18 paid to the *racing commission*[authority];

19 (10) The *racing commission*[authority] shall establish by administrative regulation
20 minimum fees for jockeys to be effective in the absence of a contract between an
21 employing owner or trainer and a jockey. The minimum fees shall be no less than
22 those of July 1, 1985;

23 (11) The *racing commission*[authority] may refuse to issue or renew a license, revoke or
24 suspend a license, impose probationary conditions on a license, issue a written
25 reprimand or admonishment, impose fines or penalties, deny purse money, require
26 the forfeiture of purse money, or any combination thereof with regard to a licensee
27 or other person participating in Kentucky horse racing for violation of any federal or

1 state statute, regulation, or steward's or **racing commission's**~~[authority's]~~ directive,
 2 ruling, or order to preserve the integrity of Kentucky horse racing or to protect the
 3 racing public. The **racing commission**~~[authority]~~ shall, by administrative
 4 regulation, establish the criteria for taking the actions described in this subsection;

5 (12) The **racing commission**~~[authority]~~ may issue subpoenas for the attendance of
 6 witnesses before it and for the production of documents, records, papers, books,
 7 supplies, devices, equipment, and all other instrumentalities related to pari-mutuel
 8 horse racing within the Commonwealth. The **racing commission**~~[authority]~~ may
 9 administer oaths to witnesses and require witnesses to testify under oath whenever,
 10 in the judgment of the **racing commission**~~[authority]~~, it is necessary to do so for the
 11 effectual discharge of its duties;

12 (13) The **racing commission**~~[authority]~~ shall have authority to compel any racing
 13 association licensed under this chapter to file with the **racing**
 14 **commission**~~[authority]~~ at the end of its fiscal year, a balance sheet, showing assets
 15 and liabilities, and an earnings statement, together with a list of its stockholders or
 16 other persons holding a beneficial interest in the association; and

17 (14) The **racing commission**~~[authority]~~ shall promulgate administrative regulations
 18 establishing safety standards for jockeys, which shall include the use of rib
 19 protection equipment. Rib protection equipment shall not be included in a jockey's
 20 weight.

21 ➔Section 451. KRS 230.265 is amended to read as follows:

22 (1) (a) There is hereby created a panel, to be known as the Kentucky Equine Drug
 23 Research Council, to advise the **racing commission**~~[authority]~~ on the conduct
 24 of equine drug research and testing commissioned by the Kentucky Horse
 25 Racing **Commission**~~[Authority]~~.

26 (b) The council shall consist of nine (9) members appointed by the Governor. It is
 27 recommended that the Governor appoint one (1) person from each of the

following groups, organizations, or professions:

1. A veterinarian, selected from a list of three (3) submitted by the Kentucky Association of Equine Veterinarians;
2. A horseman, selected from a list of three (3) submitted by the Kentucky division of the Horsemen's Benevolent and Protective Association;
3. A pharmacologist, selected from a list of three (3) submitted by the University of Kentucky;
4. A thoroughbred breeder, selected from a list of three (3) submitted by the Kentucky Thoroughbred Owners and Breeders, Inc.;
5. A legislator, selected from a list of three (3) submitted by the Legislative Research Commission;
6. A representative of a licensed racing association, chosen by the Governor;
7. A member of the harness racing industry, selected from a list of three (3) submitted by the chairman of the Kentucky Horse Racing Commission[Authority];
8. A member selected from a list of three (3) submitted by the Kentucky Harness Horsemen's Association; and
9. A member of the Kentucky Horse Racing Commission[Authority], selected from a list of three (3) submitted by the chairman of the Kentucky Horse Racing Commission[Authority], to serve as chairman.

(c) The council shall meet at the call of the chairman, a majority of the council, or at the request of the racing commission[authority]. Members shall serve at the pleasure of their respective sponsoring organizations and shall receive no compensation for serving.

(2) The Kentucky Equine Drug Research Council shall:

(a) Review equine drug research and testing research being conducted at the

- 1 University of Kentucky, or with state funds;
- 2 (b) Review and report to the racing commission[authority] on drug research and
- 3 testing research being conducted elsewhere;
- 4 (c) Advise the racing commission[authority] and make recommendations for
- 5 establishing an effective drug regulatory policy for Kentucky racing; and
- 6 (d) Report to the General Assembly any needed changes regarding the regulation
- 7 of drugs in horse racing in the Commonwealth of Kentucky.

8 (3) The funds received by the racing commission[authority] pursuant to KRS 138.510

9 shall be used in Kentucky for financing drug research, testing research, equine

10 medical research, and equine health research issues, or any regulatory or

11 administrative activity of the racing commission[authority] that is related to the

12 research and issues described in this subsection. Any expenditure under this

13 subsection shall relate to the racing industry in Kentucky. The money received

14 under this subsection shall be in addition to any funds appropriated to the racing

15 commission[authority] for these purposes in the executive budget.

16 ➔Section 452. KRS 230.270 is amended to read as follows:

17 The racing commission[authority] shall biennially make a full report to the General

18 Assembly of its proceedings for the two-year period ending December 31 preceding the

19 meeting of the General Assembly and may embody in the report such suggestions and

20 recommendations as it deems desirable.

21 ➔Section 453. KRS 230.280 is amended to read as follows:

- 22 (1) No person shall hold or conduct any horse race meeting for any stake, purse, or
- 23 reward within the Commonwealth of Kentucky without securing the required
- 24 license from the racing commission[authority].
- 25 (2) The racing commission[authority] shall investigate the qualifications of each
- 26 applicant for a license to conduct a horse race meeting or the renewal of a license to
- 27 conduct a horse race meeting. The racing commission[authority] may issue or

1 renew a license unless the racing commission~~[authority]~~ determines that:

- 2 (a) The track location, traffic flow, facilities for the public, and facilities for
3 racing participants and horses do not meet state code or are otherwise
4 inadequate to protect the public health and safety;
- 5 (b) The racing dates and times requested conflict with another race meeting of the
6 same breed of horse;
- 7 (c) The financing or proposed financing of the entire operation is not adequate for
8 the operation or is from an unsuitable source;
- 9 (d) The applicant or licensee has failed to disclose or has misstated information or
10 otherwise attempted to mislead the racing commission~~[authority]~~ with respect
11 to any material fact contained in the application for the issuance or renewal of
12 the license;
- 13 (e) The applicant has knowingly failed to comply with the provision of this
14 chapter or any administrative regulations promulgated thereunder;
- 15 (f) Any of the principals of the applicant or licensee is determined to be
16 unsuitable because he or she has:
 - 17 1. Been convicted of any crime of moral turpitude, embezzlement, or
18 larceny, or any violation of any law pertaining to illegal gaming or
19 gambling, or any crime that is inimical to the declared policy of the
20 Commonwealth of Kentucky with regard to horse racing and pari-mutuel
21 wagering thereon;
 - 22 2. Been convicted in any jurisdiction within ten (10) years preceding initial
23 licensing or license renewal of any crime that is or would be a felony or
24 class A misdemeanor in the Commonwealth of Kentucky;
 - 25 3. Been identified in the published reports of any federal or state legislative
26 or executive body as being a member or associate of organized crime, or
27 of being of notorious or unsavory reputation;

4. Been placed and remains in the custody of any federal, state, or local law enforcement authority;
5. Had a racing or gaming license revoked in another jurisdiction on grounds that would have been grounds for revoking the license in Kentucky; or
6. Engaged in any other activities that would pose a threat to the public interest or to the effective regulation of horse racing and wagering in Kentucky, or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of racing and wagering or in the operation of the business and financial arrangements incidental thereto; or

(g) The applicant or licensee has had a racing or gaming license denied or revoked in another jurisdiction on grounds that would be grounds for license denial or revocation in Kentucky.

→Section 454. KRS 230.290 is amended to read as follows:

All licenses granted under this chapter:

- (1) Shall be in writing;
- (2) Shall be subject to all administrative regulations and conditions as may from time to time be prescribed by the racing commission[authority];
- (3) Shall contain conditions as may be considered necessary or desirable by the racing commission[authority] for purposes of this chapter; and
- (4) No license shall extend beyond the end of the calendar year for which it was issued, unless the license expires on the last date of the birth month of the licensee, in which case it may expire on that date. The racing commission[authority] may renew any license and any renewal shall not be construed to be a waiver or condonement of any violation which occurred prior to renewal and shall not prevent subsequent proceedings against the licensee therefor.

➔ Section 455. KRS 230.300 is amended to read as follows:

(1) Any person desiring to conduct horse racing at a horse race meeting within the Commonwealth of Kentucky or to engage in simulcasting and intertrack wagering as a receiving track during any calendar year shall first apply to the racing commission[authority] for a license to do so. The application shall be filed at the racing commission's[authority's] general office on or before October 1 of the preceding year with respect to applications to conduct live horse race meetings, and with respect to intertrack wagering dates, and on forms prescribed by the racing commission[authority]. The application shall include the following information:

- (a) The full name and address of the person making application;
- (b) The location of the place, track, or enclosure where the applicant proposes to conduct horse racing meetings;
- (c) The dates on which the applicant intends to conduct horse racing, which shall be successive days unless authorized by the racing commission[authority];
- (d) The proposed hours of each racing day and the number of races to be conducted;
- (e) The names and addresses of all principals associated with the applicant or licensee;
- (f) The type of organizational structure under which the applicant operates, i.e., partnership, trust, association, limited liability company, or corporation, and the address of the principal place of business of the organization;
- (g) Any criminal activities in any jurisdiction for which any individual listed under paragraphs (a) and (e) has been arrested or indicted and the disposition of the charges, and any current or on-going criminal investigation of which any of these individuals is the subject; and
- (h) Any other information that the racing commission[authority] by administrative regulation deems relevant and necessary to determine the

1 fitness of the applicant to receive a license, including fingerprints of any
2 individual listed under paragraphs (a) and (e), if necessary for proper
3 identification of the individual or a determination of suitability to be
4 associated with a licensed racing association.

5 (2) An application for license shall be accompanied by the following documents:

6 (a) For a new license applicant, a financial statement prepared and attested to by a
7 certified public accountant in accordance with generally accepted accounting
8 principles, showing the following:

- 9 1. The net worth of the applicant;
- 10 2. Any debts or financial obligations owed by the applicant and the persons
11 to whom owed; and
- 12 3. The proposed or current financing structure for the operation and the
13 sources of financing.

14 (b) For a license renewal applicant, an audited financial statement for the prior
15 year;

16 (c) A copy of the applicant's federal and state tax return for the previous year. Tax
17 returns submitted in accordance with this provision shall be treated as
18 confidential;

19 (d) A statement from the Department of Revenue that there are no delinquent
20 taxes or other financial obligations owed by the applicant to the state or any of
21 its agencies or departments;

22 (e) A statement from the county treasurer of the county in which the applicant
23 conducts or proposes to conduct horse racing meetings that there are no
24 delinquent real or personal property taxes owed by the applicant.

25 (3) The completed application shall be signed by the applicant or the chief executive
26 officer if the applicant is an organization, sworn under oath that the information is
27 true, accurate, and complete, and the application shall be notarized.

- 1 (4) If there is any change in any information submitted in the application process, the
2 applicant or licensee shall notify the *rac**ing commission*[authority] within thirty
3 (30) days of the change.
- 4 (5) The *rac**ing commission*[authority] shall as soon as practicable, but in no event later
5 than November 1 in any calendar year, award dates for racing in the Commonwealth
6 during the next year. In awarding dates, the *rac**ing commission*[authority] shall
7 consider and seek to preserve each track's usual and customary dates, as these dates
8 are requested. If dates other than the usual and customary dates are requested, the
9 applicant shall include a statement in its application setting forth the reasons the
10 requested dates are sought. Dates for the conduct of intertrack wagering shall be
11 awarded as provided in KRS 230.377. In the event scheduled racing is canceled by
12 reason of flood, fire, inclement weather, or other natural disaster or emergency, the
13 *rac**ing commission*[authority] may award after November 1 additional racing dates
14 to make up for those dates canceled.
- 15 (6) The *rac**ing commission*[authority] may issue a license to conduct a horse race
16 meeting to any association making the aforesaid application if the applicant meets
17 the requirements established in KRS 138.530 and other applicable provisions of this
18 chapter, and if the *rac**ing commission*[authority] finds that the proposed conduct of
19 racing by the association would be in the best interest of the public health, safety,
20 and welfare of the immediate community as well as to the Commonwealth.
- 21 (7) As a condition precedent to the issuance of a license, the *rac**ing*
22 *commission*[authority] may require a surety bond or other surety conditioned upon
23 the payment of all taxes due the Commonwealth, together with the payment of
24 operating expenses including purses and awards to owners of horses participating in
25 races.
- 26 (8) The *rac**ing commission*[authority] may impose a fee and shall establish, by
27 administrative regulation promulgated in accordance with KRS Chapter 13A, a fee

1 schedule for association license applications.

2 (9) The *rac**ing commission*[authority] may require an applicant for an association
3 license to submit to a background check of the applicant, or of any principal,
4 individual, or organization associated with the applicant. The *rac**ing*
5 *commission*[authority] shall not require a background check for any individual who
6 is a principal as defined in KRS 230.210 but owns stock or financial interest in the
7 applicant of less than ten percent (10%). An applicant shall be required to reimburse
8 the *rac**ing commission*[authority] for the cost of any background check conducted.

9 (10) Every license issued under this chapter shall specify among other things the name of
10 the person to whom issued, the address and location of the track where the horse
11 race meeting to which it relates is to be held or conducted, and the days and hours
12 of the day when the meeting will be permitted; provided, however, that no track that
13 is granted overlapping dates for the conduct of a live race meeting with another
14 horse racing track within a fifty (50) mile radius shall be permitted to have a post
15 time after 5:30 p.m., prevailing time for overlapping days between July 1 and
16 September 15, unless agreed to in writing by the tracks affected.

17 (11) A license issued under this section is neither transferable nor assignable and shall
18 not permit the conduct of a horse race meeting at any track not specified therein.
19 However, if the track specified becomes unsuitable for racing because of flood, fire,
20 or other catastrophe, the *rac**ing commission*[authority] may, upon application,
21 authorize the meeting, or any remaining portion thereof, to be conducted at any
22 other suitable track available for that purpose, provided that the owner of the track
23 willingly consents to the use thereof.

24 (12) Horse racing dates may be awarded and licenses issued authorizing horse racing on
25 any day of the year. Horse racing shall be held or conducted only between sunrise
26 and midnight.

27 (13) The *rac**ing commission*[authority] may at any time require the removal of any

1 official or employee of any association in those instances where it has reason to
 2 believe that the official or employee has been guilty of any dishonest practice in
 3 connection with horse racing or has failed to comply with any condition of his
 4 license or has violated any law or any administrative regulation of this *racing*
 5 *commission*[authority].

6 (14) Every horse race not licensed under this section is hereby declared to be a public
 7 nuisance and the *racing commission*[authority] may obtain an injunction against
 8 the same in the Circuit Court of the county where the unlicensed race is proposed to
 9 take place.

10 ➔Section 456. KRS 230.310 is amended to read as follows:

11 (1) Every person not required to be licensed under KRS 230.300 who desires to
 12 participate in horse racing in the Commonwealth as a horse owner, trainer, jockey,
 13 apprentice jockey, agent, stable employee, racing official, association employee, or
 14 employee of a person or concern contracting with the association to provide a
 15 service or commodity and which requires their presence on association grounds
 16 during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food,
 17 tack, medication, or horse feed, or in any other capacity as the *racing*
 18 *commission*[authority] shall from time to time establish by administrative
 19 regulation, shall first apply to the *racing commission*[authority] for a license to
 20 participate in the activity on association grounds during a race meeting. No person
 21 required to be licensed by this section may participate in any activity required to be
 22 licensed on association grounds during a race meeting without a valid license
 23 therefor. An applicant for a license shall submit to the *racing*
 24 *commission*[authority] fingerprints as may be required and other information
 25 necessary and reasonable for processing a license application. The *racing*
 26 *commission*[authority] is authorized to exchange fingerprint data with the
 27 Department of Kentucky State Police and the Federal Bureau of Investigation in

1 order to conduct a criminal history background check of an applicant. The *rac*
 2 *commission*~~[authority]~~ may issue a license if it finds that the financial
 3 responsibility, age, experience, reputation, competence, and general fitness of the
 4 applicant to perform the activity permitted by a license are consistent with the best
 5 interest of racing and the maintenance of the honesty, integrity, and high quality
 6 thereof.

- 7 (2) A license may be issued for the calendar year for which an applicant applies or, if
 8 authorized by administrative regulation, a license may be issued that expires on the
 9 last day of the birth month of the licensee. A license may be renewed by the *rac*
 10 *commission*~~[authority]~~. The license shall be valid at all horse race meetings in the
 11 Commonwealth during the period for which it is issued unless suspended or
 12 revoked under the administrative regulations promulgated by the *rac*
 13 *commission*~~[authority]~~ under this chapter. With respect to horse owners and
 14 trainers, the *rac* *commission*~~[authority]~~ may promulgate administrative
 15 regulations to facilitate and promote uniform, reciprocal licensing with other states.

16 ➔Section 457. KRS 230.320 is amended to read as follows:

- 17 (1) Every license granted under this chapter is subject to denial, revocation, or
 18 suspension, and every licensee or other person participating in Kentucky horse
 19 racing may be assessed an administrative fine and required to forfeit or return a
 20 purse, by the *rac* *commission*~~[authority]~~ in any case where it has reason to
 21 believe that any provision of this chapter, administrative regulation, or condition of
 22 the *rac* *commission*~~[authority]~~ affecting it has not been complied with or has
 23 been broken or violated. The *rac* *commission*~~[authority]~~ may deny, revoke, or
 24 suspend a license for failure by the licensee or other person participating in
 25 Kentucky horse racing to pay an administrative fine imposed upon the licensee by
 26 the stewards or the *rac* *commission*~~[authority]~~. The *rac*
 27 *commission*~~[authority]~~, in the interest of honesty and integrity of horse racing, may

1 promulgate administrative regulations under which any license may be denied,
 2 suspended, or revoked, and under which any licensee or other person participating
 3 in Kentucky horse racing may be assessed an administrative fine or required to
 4 forfeit or return a purse.

5 (2) (a) Following a hearing by the stewards, a person who has been disciplined by a
 6 ruling of the stewards may apply to the racing commission[authority] for a
 7 stay of the ruling, pending action on an appeal by the racing
 8 commission[authority].

9 (b) An application for a stay shall be received by the executive director or his
 10 designee within ten (10) calendar days of the issuance of the stewards' ruling.

11 (c) An application for a stay shall be in writing and include the following:

- 12 1. The name, address, telephone number, and signature of the person
- 13 requesting the stay;
- 14 2. A statement of the justification for the stay; and
- 15 3. The period of time for which the stay is requested.

16 (d) On a finding of good cause, the executive director or his designee may grant
 17 the stay. The executive director or his designee shall issue a written decision
 18 granting or denying the request for stay within five (5) calendar days from the
 19 time the application for stay is received by the executive director or his
 20 designee. If the executive director or his designee fails to timely issue a
 21 written decision, then the stay is deemed granted. The executive director or his
 22 designee may rescind a stay granted under this subsection for good cause.

23 (e) A person who is denied a stay by the executive director or his designee, or has
 24 a previously granted stay rescinded under paragraph (d) of this subsection,
 25 may petition the racing commission[authority] to overrule the executive
 26 director's or designee's denial or rescission of the stay. The petition shall be
 27 filed in writing with the chairperson of the racing commission[authority] and

received by the chairperson within ten (10) calendar days of the mailing of the executive director's or designee's denial of the stay. The petition shall state the name, address, phone number, and signature of the petitioner; a statement of justification of the stay; and the time period for which the stay is requested. The chairperson shall convene a special meeting of the *racing commission*^[authority] within ten (10) calendar days of receipt of the petition, and the *racing commission*^[authority] shall issue a written final order granting or denying the petition within two (2) calendar days of the special meeting. If the *racing commission*^[authority] fails to timely issue a final order on the petition, then the stay is granted. The *racing commission*^[authority] may rescind a stay granted under this subsection for good cause.

(f) A person who is denied or has a previously granted stay rescinded by the *racing commission*^[authority] may file an appeal of the final written order of the *racing commission*^[authority] in the Circuit Court of the county in which the cause of action arose.

(g) The fact that a stay is granted is not a presumption that the ruling by the stewards is invalid.

(3) If any license is denied, suspended, or revoked, or if any licensee or other person participating in Kentucky horse racing is assessed an administrative fine or required to forfeit or return a purse, after a hearing by the stewards or by the *racing commission*^[authority] acting on a complaint or by its own volition, the *racing commission*^[authority] shall grant the applicant, licensee, or other person the right to appeal the decision, and upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(4) The *racing commission*^[authority] may at any time order that any case pending before the stewards be immediately transferred to the *racing commission*^[authority] for an administrative hearing conducted in accordance with KRS Chapter 13B.

1 (5) (a) In an administrative appeal to the *rac**ing commission*[authority] by a licensee
 2 or other person participating in Kentucky horse racing, the *rac**ing*
 3 *commission*[authority] may determine in its final order that the appeal is
 4 frivolous. If the *rac**ing commission*[authority] finds that an appeal is
 5 frivolous:

- 6 1. This fact shall be considered an aggravating circumstance and may be
 7 considered in assessing any penalty against the licensee; and
- 8 2. The licensee or other person who raised the appeal may be required to
 9 reimburse the *rac**ing commission*[authority] for the cost of the
 10 investigation of the underlying circumstances of the case and the cost of
 11 the adjudication of the appeal. Costs may include but are not limited to
 12 fees paid to a hearing officer or court reporter, attorneys fees, and
 13 laboratory expenses.

14 (b) The *rac**ing commission*[authority] shall by administrative regulation prescribe
 15 the conditions or factors by which an appeal may be determined to be
 16 frivolous.

17 (6) Any administrative action authorized in this chapter shall be in addition to any
 18 criminal penalties provided in this chapter or under other provisions of law.

19 ➔Section 458. KRS 230.330 is amended to read as follows:

20 Any licensee or any applicant aggrieved by any final order of the *rac**ing*
 21 *commission*[authority] may appeal to the Franklin Circuit Court in accordance with KRS
 22 Chapter 13B.

23 ➔Section 459. KRS 230.350 is amended to read as follows:

24 (1) Any person licensed by this *rac**ing commission*[authority] under KRS 230.300 may
 25 be issued a license by the Alcoholic Beverage Control Board and may hold a
 26 distilled spirits and wine special temporary license and malt beverage special
 27 temporary license as provided in KRS 243.260 and 243.290. The licenses, and each

of them, when issued shall be valid and effective only upon premises licensed by this *racine commission*~~[authority]~~ and upon the dates and hours for which racing or intertrack wagering has been authorized by this *racine commission*~~[authority]~~. A temporary license may be issued for the period the racing or intertrack wagering has been authorized, even if the period exceeds the thirty (30) days as provided in KRS 243.260 and 243.290.

- (2) Other provisions of the Kentucky Revised Statutes notwithstanding, in a county containing a city of the third or fourth class, a limited sale precinct election may be held in any precinct containing a licensed racing association. The election shall be conducted in the same manner as provided for in KRS 242.1292. Upon approval of the proposition, a license shall be issued in accordance with subsection (1) of this section. Nothing in this section shall be construed as authorizing the issuance of any alcoholic beverage licenses other than for the premises of a licensed racing association pursuant to KRS 243.260 and 243.290.

→ Section 460. KRS 230.361 is amended to read as follows:

- (1) The *racine commission*~~[authority]~~ shall promulgate administrative regulations governing and regulating mutuel wagering on horse races under what is known as the pari-mutuel system of wagering. The wagering shall be conducted only by a person licensed under this chapter to conduct a race meeting and only upon the licensed premises. The pari-mutuel system of wagering shall be operated only by a totalizator or other mechanical equipment approved by the *racine commission*~~[authority]~~. The *racine commission*~~[authority]~~ shall not require any particular make of equipment.
- (2) The operation of a pari-mutuel system for betting where authorized by law shall not constitute grounds for the revocation or suspension of any license issued and held under KRS 230.350.
- (3) All reported but unclaimed pari-mutuel winning tickets held in this state by any

1 person or association operating a pari-mutuel or similar system of betting at horse
 2 race meetings shall be presumed abandoned if not claimed by the person entitled to
 3 them within one (1) year from the time the ticket became payable.

- 4 (4) The racing commission[authority] may issue a license to conduct pari-mutuel
 5 wagering on steeple chases or other racing over jumps; if all proceeds from the
 6 wagering, after expenses are deducted, is used for charitable purposes. If the dates
 7 requested for such a license have been granted to a track within a forty (40) mile
 8 radius of the race site, the racing commission[authority] shall not issue a license
 9 until it has received written approval from the affected track. Pari-mutuel wagering
 10 licensed and approved under this subsection shall be limited to four (4) days per
 11 year. All racing and wagering authorized by this subsection shall be conducted in
 12 accordance with applicable administrative regulations promulgated by the racing
 13 commission[authority].

14 ➔Section 461. KRS 230.3615 is amended to read as follows:

- 15 (1) The commission, including the tax levied in KRS 138.510, deducted from the gross
 16 amount wagered by the association which operates a race track under the
 17 jurisdiction of the Kentucky Horse Racing Commission[Authority] and conducts
 18 the thoroughbred racing at which betting is conducted through a pari-mutuel or
 19 other similar system, in races where the patron is required to select one (1) horse,
 20 and the breaks, which breaks shall be made and calculated to the dime, shall not be
 21 more than sixteen percent (16%) at the discretion of those tracks averaging over one
 22 million two hundred thousand dollars (\$1,200,000) in on-track pari-mutuel handle
 23 per day of live racing conducted by the association. The commission at those tracks
 24 averaging one million two hundred thousand dollars (\$1,200,000) or less in on-track
 25 pari-mutuel handle per day of live racing conducted by the association, at the
 26 discretion of such track, shall not be more than seventeen and one-half percent
 27 (17.5%) in races where the patron is required to select one (1) horse, and the breaks,

1 which breaks shall be made and calculated to the dime.

2 (2) The commission at those tracks averaging over one million two hundred thousand
 3 dollars (\$1,200,000) in on track pari-mutuel handle per day of live racing conducted
 4 by the association, including the tax levied in KRS 138.510, deducted from the
 5 gross amount wagered by the person, corporation, or association which operates a
 6 race track under the jurisdiction of the Kentucky Horse Racing
 7 Commission~~[Authority]~~ and conducts thoroughbred racing at which betting is
 8 conducted through a pari-mutuel or other similar system shall not exceed nineteen
 9 percent (19%) of the gross handle in races where the patron is required to select two
 10 (2) or more horses, and the breaks, which breaks shall be made and calculated to the
 11 dime. The commission, at those tracks averaging one million two hundred thousand
 12 dollars (\$1,200,000) or less in on track pari-mutuel handle per day of live racing
 13 conducted by the association, including the tax levied in KRS 138.510, deducted
 14 from the gross amount wagered by the association which operates a race track under
 15 the jurisdiction of the Kentucky Horse Racing Commission~~[Authority]~~ and
 16 conducts thoroughbred racing at which betting is conducted through a pari-mutuel
 17 or other similar system shall not exceed twenty-two percent (22%) of the gross
 18 handle in races where the patron is required to select two (2) or more horses, and the
 19 breaks, which breaks shall be made and calculated to the dime.

20 (3) The minimum wager to be accepted by any licensed association shall be ten cents
 21 (\$0.10). The minimum pay-off on a one dollar (\$1) wager shall be one dollar and
 22 ten cents (\$1.10); but, in the event of a minus pool, the minimum pay-off for a one
 23 dollar (\$1) wager shall be one dollar and five cents (\$1.05).

24 (4) Each association conducting thoroughbred racing and averaging one million two
 25 hundred thousand dollars (\$1,200,000) or less in on-track pari-mutuel handle per
 26 day of live racing conducted by the association shall pay to the racing
 27 commission~~[authority]~~ all moneys allocated to the backside improvement fund in

1 an amount equal to one-half of one percent (0.5%) of its on-track pari-mutuel
2 wagers.

3 ➔Section 462. KRS 230.362 is amended to read as follows:

4 Any person holding unclaimed pari-mutuel winning tickets presumed abandoned under
5 the provisions of KRS 230.361 shall file annually, on or before September 1 of each year,
6 with the office of the racing commission[authority] a list of and the amounts represented
7 by unclaimed pari-mutuel tickets held by such person as of July 1, and other information
8 as the racing commission[authority] may require for the administration of KRS 230.361
9 to 230.373. The report shall be made in duplicate; the original shall be retained by the
10 racing commission[authority] and the copy shall be mailed to the sheriff of the county
11 where the unclaimed pari-mutuel tickets are held. It shall be the duty of the sheriff to post
12 for not less than twenty (20) consecutive days a copy of the report on the courthouse door
13 or the courthouse bulletin board, and to publish the copy in the manner set forth by KRS
14 Chapter 424. The cost of the publication shall be paid by the racing
15 commission[authority]. The sheriff shall immediately certify in writing to the racing
16 commission[authority] the dates when the list was posted and published. The list shall be
17 posted and published as required on or before October 1 of the year when it is made, and
18 such posting and publishing shall be constructive notice to all holders of pari-mutuel
19 tickets which have remained unclaimed for a period of one (1) year from the time the
20 ticket became payable.

21 ➔Section 463. KRS 230.363 is amended to read as follows:

22 Any person who has made a report of unclaimed pari-mutuel tickets to the racing
23 commission[authority] as required by KRS 230.362 shall, between November 1 and
24 November 15 of each year, turn over to the racing commission[authority] the sum
25 represented by the unclaimed pari-mutuel tickets so reported; but if the person making the
26 report or the owner of the unclaimed pari-mutuel ticket certifies to the racing
27 commission[authority] by sworn statement that any or all of the statutory conditions

1 necessary to create a presumption of abandonment no longer exists or never did exist, or
 2 shall certify existence of any fact or circumstance in which there is substantial evidence to
 3 rebut such presumption, then, the person reporting the unclaimed pari-mutuel tickets or
 4 holding the sum represented by the unclaimed pari-mutuel tickets as reported shall not be
 5 required to turn over said sum to the **racing commission**~~[authority]~~ except upon order of
 6 court. If the holder of any unclaimed pari-mutuel ticket files an action in court claiming
 7 the sum which has been reported under the provisions of KRS 230.362, the person
 8 reporting or holding the sum represented by said unclaimed pari-mutuel ticket shall be
 9 under no duty while any such action is pending to turn over said sum to the **racing**
 10 **commission**~~[authority]~~, but shall have the duty of notifying the **racing**
 11 **commission**~~[authority]~~ of the pendency of such action.

12 → Section 464. KRS 230.364 is amended to read as follows:

13 Any person holding an unclaimed pari-mutuel ticket or any person holding the sum
 14 represented by an unclaimed pari-mutuel ticket, or any claimant thereto shall have the
 15 right to a judicial determination of his rights under KRS 230.361 to 230.373 and nothing
 16 therein shall be construed otherwise; and the **racing commission**~~[authority]~~ may institute
 17 an action to recover the sum represented by the unclaimed pari-mutuel tickets which are
 18 presumed abandoned whether said sum has been reported or not and may include in one
 19 (1) petition the sum represented by all the unclaimed pari-mutuel tickets as defined herein
 20 within the jurisdiction of the court in which the action is brought.

21 → Section 465. KRS 230.365 is amended to read as follows:

22 Any person who pays the sum represented by the unclaimed pari-mutuel tickets to the
 23 **racing commission**~~[authority]~~ under KRS 230.363 is relieved of all liability for the value
 24 of said unclaimed pari-mutuel tickets for any claim made in respect of said unclaimed
 25 pari-mutuel tickets.

26 → Section 466. KRS 230.366 is amended to read as follows:

27 Any person claiming an interest in any unclaimed pari-mutuel ticket which has been paid

1 or surrendered to the *raci**ng commission*[authority] in accordance with KRS 230.361 to
 2 230.373 may file his claim to it at any time after it was paid to the *raci**ng*
 3 *commission*[authority].

4 ➔Section 467. KRS 230.367 is amended to read as follows:

5 The *raci**ng commission*[authority] shall consider any claim or defense permitted to be
 6 filed before the *raci**ng commission*[authority] and hear the evidence concerning it. If the
 7 claimant establishes his claim, the *raci**ng commission*[authority] shall, when the time for
 8 appeal or other legal procedure has expired, authorize payment to him of a sum equal to
 9 the amount of his claim paid to the *raci**ng commission*[authority] in accordance with
 10 KRS 230.361 to 230.373. The decision shall be in writing and shall state the substance of
 11 the evidence heard by the *raci**ng commission*[authority], if a transcript is not kept. The
 12 decision shall be a matter of public record.

13 ➔Section 468. KRS 230.368 is amended to read as follows:

14 Any person dissatisfied with the decision of the *raci**ng commission*[authority] under
 15 KRS 230.367 may appeal to the Franklin Circuit Court in accordance with the provisions
 16 of KRS 243.560 to 243.590.

17 ➔Section 469. KRS 230.369 is amended to read as follows:

18 The *raci**ng commission*[authority], through its employees, may examine all records of
 19 any person where there is reason to believe that there has been or is a failure to report
 20 unclaimed pari-mutuel tickets.

21 ➔Section 470. KRS 230.370 is amended to read as follows:

22 The *raci**ng commission*[authority] may promulgate any reasonable and necessary
 23 administrative regulation for the enforcement of the provisions of this chapter and the
 24 conduct of hearings held before it.

25 ➔Section 471. KRS 230.371 is amended to read as follows:

26 The *raci**ng commission*[authority] may require the production of reports or the surrender
 27 of sums represented by unclaimed pari-mutuel tickets as provided in KRS 230.361 to

1 230.373 by civil equity action, including, but not limited to, an action in the nature of a
 2 bill of discovery, in which case the defendant shall pay a penalty equal to ten percent
 3 (10%) of all amounts that he is ultimately required to surrender. The *rac*
 4 *commission*~~[authority]~~ shall follow the procedures provided by the Rules of Civil
 5 Procedure.

6 →Section 472. KRS 230.372 is amended to read as follows:

7 Any payments made to any persons claiming an interest in an unclaimed pari-mutuel
 8 ticket, and any necessary expense including, but not limited to, administrative costs,
 9 advertising costs, court costs and attorney's fees, required to be paid by the *rac*
 10 *commission*~~[authority]~~ in administering or enforcing the provisions of KRS 230.361 to
 11 230.373 shall be deducted from sums received by the *rac* *commission*~~[authority]~~ prior
 12 to payment to the Kentucky Racing Health and Welfare Fund.

13 →Section 473. KRS 230.374 is amended to read as follows:

14 All sums reported and paid to the *rac* *commission*~~[authority]~~ under the provisions of
 15 KRS 230.361 to 230.373, with the exception of funds paid under KRS 230.398, shall be
 16 paid by the *rac* *commission*~~[authority]~~ to the Kentucky Racing Health and Welfare
 17 Fund, Inc., a nonprofit charitable corporation, organized for the benefit, aid, assistance,
 18 and relief of thoroughbred owners, trainers, jockeys, valets, exercise riders, grooms,
 19 stable attendants, pari-mutuel clerks, and other thoroughbred racing personnel employed
 20 in connection with racing, and their spouses and children, who can demonstrate their need
 21 for financial assistance connected with death, illness, or off-the-job injury and are not
 22 otherwise covered by union health and welfare plans, workers' compensation, Social
 23 Security, public welfare, or any type of health, medical, death, or accident insurance.
 24 These sums shall be paid on or before December 31 in each year, however, no payments
 25 shall be made by the *rac* *commission*~~[authority]~~ to the Kentucky Racing Health and
 26 Welfare Fund, Inc., unless the *rac* *commission*~~[authority]~~ and the Auditor of Public
 27 Accounts are satisfied that the fund is in all respects being operated for the charitable and

1 benevolent purposes as set forth in this section and that no part of the funds paid to the
 2 fund by the *rac**ing commission*[authority] or any net earnings of the fund inure to the
 3 benefit of any private individual, director, officer, or member of the fund or any of the
 4 persons who turned over sums to the *rac**ing commission*[authority] representing
 5 unclaimed pari-mutuel tickets.

6 ➔Section 474. KRS 230.375 is amended to read as follows:

- 7 (1) The board of directors of the Kentucky Racing Health and Welfare Fund, Inc., may
 8 create and fund the Kentucky Race Track Retirement Plan. The board shall use no
 9 more than twenty-five percent (25%) of the annual sum paid by the *rac**ing*
 10 *com**mission*[authority] under KRS 230.361 to 230.373 to fund the plan.
- 11 (2) The plan shall be provided for the benefit of thoroughbred trainers, assistant
 12 trainers, exercise riders, grooms, stable attendants, and other stable employees who
 13 can demonstrate that they are not otherwise eligible to participate in any other
 14 private or public, nonself-funded retirement or pension plan.
- 15 (3) The Kentucky Race Track Retirement Plan shall be administered by the board of
 16 directors of the Kentucky Racing Health and Welfare Fund, Inc., for the charitable
 17 and benevolent purposes set forth in KRS 230.374, and no part of the sums
 18 administered by the fund for the plan or any net earnings of the plan shall inure to
 19 the benefit of any private individual, director, officer, or member of the fund, or any
 20 of the persons who paid sums to the *rac**ing commission*[authority] under the
 21 provisions of KRS 230.361 to 230.373.
- 22 (4) The board of directors of the Kentucky Racing Health and Welfare Fund, Inc., shall
 23 be the trustee of the plan's funds and shall have full power to invest and reinvest
 24 funds. Investments shall be diversified to balance the risks associated with various
 25 investment options to maintain the long-term solvency of the plan. The board shall
 26 have full power to hold, purchase, sell, assign, transfer, or dispose of any of the
 27 investments in which any of the plan's funds have been invested, as well as of the

proceeds of investments belonging to the plan. The board members or any investment manager shall discharge their duties with respect to the assets of the plan solely in the interest of the plan's members and:

(a) For the exclusive purposes of providing benefits to plan members and their beneficiaries and defraying reasonable expenses of administering the plan;

(b) With the care, skill, prudence, and diligence under the circumstances that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims; and

(c) In accordance with any other laws or instruments governing the administration of the plan's funds.

→Section 475. KRS 230.3751 is amended to read as follows:

The Governor of this Commonwealth is authorized and directed to execute a compact on behalf of the Commonwealth with any of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each territory or possession of the United States, legally joining therein in the form substantially as follows:

ARTICLE I

PURPOSES

SECTION 1. Purposes.

The purposes of this compact are to:

1. Establish uniform requirements among the party states for the licensing of participants in live racing with pari-mutuel wagering, and ensure that all such participants who are licensed pursuant to this compact meet a uniform minimum standard of honesty and integrity.
2. Facilitate the growth of the pari-mutuel racing industry in each party state and nationwide by simplifying the process for licensing participants in live racing, and reduce the duplicative and costly process of separate licensing by the regulatory agency in each state that conducts live racing with pari-mutuel wagering.

- 1 3. Authorize the Kentucky Horse Racing Commission~~[Authority]~~ to participate in this
- 2 compact.
- 3 4. Provide for participation in this compact by officials of the party states, and permit
- 4 those officials, through the compact committee established by this compact, to enter
- 5 into contracts with governmental agencies and nongovernmental persons to carry
- 6 out the purposes of this compact.
- 7 5. Establish the compact committee created by this compact as an interstate
- 8 governmental entity duly authorized to request and receive criminal history record
- 9 information from the Federal Bureau of Investigation and other state and local law
- 10 enforcement agencies.

11 ARTICLE II

12 DEFINITIONS

13 SECTION 2. Definitions.

14 "Compact committee" means the organization of officials from the party states that is
15 authorized and empowered by this compact to carry out the purposes of this compact.

16 "Official" means the appointed, elected, designated or otherwise duly selected member of
17 a racing commission or the equivalent thereof in a party state who represents that party
18 state as a member of the compact committee.

19 "Participants in live racing" means participants in live racing with pari-mutuel wagering
20 in the party states.

21 "Party state" means each state that has enacted this compact.

22 "State" means each of the several states of the United States, the District of Columbia, the
23 Commonwealth of Puerto Rico and each territory or possession of the United States.

24 ARTICLE III

25 ENTRY INTO FORCE, ELIGIBLE PARTIES AND WITHDRAWAL

26 SECTION 3. Entry into force.

27 This compact shall come into force when enacted by any four (4) states. Thereafter, this

1 compact shall become effective as to any other state upon both (i) that state's enactment
2 of this compact and (ii) the affirmative vote of a majority of the officials on the compact
3 committee as provided in Section 8.

4 SECTION 4. States eligible to join compact.

5 Any state that has adopted or authorized live racing with pari-mutuel wagering shall be
6 eligible to become party to this compact.

7 SECTION 5. Withdrawal from compact and impact thereof on force and effect of
8 compact.

9 Any party state may withdraw from this compact by enacting a statute repealing this
10 compact, but no such withdrawal shall become effective until the head of the executive
11 branch of the withdrawing state has given notice in writing of such withdrawal to the
12 head of the executive branch of all other party states. If as a result of withdrawals
13 participation in this compact decreases to less than three (3) party states, this compact no
14 longer shall be in force and effect unless and until there are at least three (3) or more party
15 states again participating in this compact.

16 ARTICLE IV

17 COMPACT COMMITTEE

18 SECTION 6. Compact committee established.

19 There is hereby created an interstate governmental entity to be known as the "compact
20 committee," which shall be comprised of one (1) official from the racing commission or
21 its equivalent in each party state who shall be appointed, serve and be subject to removal
22 in accordance with the laws of the party state he represents. Pursuant to the laws of his
23 party state, each official shall have the assistance of his state's racing commission or the
24 equivalent thereof in considering issues related to licensing of participants in live racing
25 and in fulfilling his responsibilities as the representative from his state to the compact
26 committee. If an official is unable to perform any duty in connection with the powers and
27 duties of the compact committee, the racing commission or equivalent thereof from his

1 state shall designate another of its members as an alternate who shall serve in his place
2 and represent the party state as its official on the compact committee until that racing
3 commission or equivalent thereof determines that the original representative official is
4 able once again to perform his duties as that party state's representative official on the
5 compact committee. The designation of an alternate shall be communicated by the
6 affected state's racing commission or equivalent thereof to the compact committee as the
7 committee's bylaws may provide.

8 **SECTION 7. Powers and duties of compact committee.**

9 In order to carry out the purposes of this compact, the compact committee is hereby
10 granted the power and duty to:

- 11 1. Determine which categories of participants in live horse racing, including but not
12 limited to owners, trainers, jockeys, grooms, mutuel clerks, racing officials,
13 veterinarians, and farriers, and which categories of equivalent participants in dog
14 racing and other forms of live racing with pari-mutuel wagering authorized in two
15 (2) or more of the party states, should be licensed by the committee, and establish
16 the requirements for the initial licensure of applicants in each such category, the
17 term of the license for each category, and the requirements for renewal of licenses in
18 each category. Provided, however, that with regard to requests for criminal history
19 record information on each applicant for a license, and with regard to the effect of a
20 criminal record on the issuance or renewal of a license, the compact committee shall
21 determine for each category of participants in live racing which licensure
22 requirements for that category are, in its judgment, the most restrictive licensure
23 requirements of any party state for that category and shall adopt licensure
24 requirements for that category that are, in its judgment, comparable to those most
25 restrictive requirements.
- 26 2. Investigate applicants for a license from the compact committee and, as permitted
27 by federal and state law, gather information on such applicants, including criminal

1 history record information from the Federal Bureau of Investigation and relevant
2 state and local law enforcement agencies, and, where appropriate, from the Royal
3 Canadian Mounted Police and law enforcement agencies of other countries,
4 necessary to determine whether a license should be issued under the licensure
5 requirements established by the committee as provided in paragraph 1 above. Only
6 officials on, and employees of, the compact committee may receive and review such
7 criminal history record information, and those officials and employees may use that
8 information only for the purposes of this compact. No such official or employee
9 may disclose or disseminate such information to any person or entity other than
10 another official on or employee of the compact committee. The fingerprints of each
11 applicant for a license from the compact committee shall be taken by the compact
12 committee, its employees, or its designee and, pursuant to Public Law 92-544 or
13 Public Law 100-413, shall be forwarded to a state identification bureau, or to an
14 association of state officials regulating pari-mutuel wagering designated by the
15 Attorney General of the United States, for submission to the Federal Bureau of
16 Investigation for a criminal history record check. Such fingerprints may be
17 submitted on a fingerprint card or by electronic or other means authorized by the
18 Federal Bureau of Investigation or other receiving law enforcement agency.

- 19 3. Issue licenses to, and renew the licenses of, participants in live racing listed in
20 paragraph 1 of this section who are found by the committee to have met the
21 licensure and renewal requirements established by the committee. The compact
22 committee shall not have the power or authority to deny a license. If it determines
23 that an applicant will not be eligible for the issuance or renewal of a compact
24 committee license, the compact committee shall notify the applicant that it will not
25 be able to process his application further. Such notification does not constitute and
26 shall not be considered to be the denial of a license. Any such applicant shall have
27 the right to present additional evidence to, and to be heard by, the compact

1 committee, but the final decision on issuance or renewal of the license shall be
2 made by the compact committee using the requirements established pursuant to
3 paragraph 1 of this section.

4 4. Enter into contracts or agreements with governmental agencies and with
5 nongovernmental persons to provide personal services for its activities and such
6 other services as may be necessary to effectuate the purposes of this compact.

7 5. Create, appoint, and abolish those offices, employments, and positions, including an
8 executive director, as it deems necessary for the purposes of this compact, prescribe
9 their powers, duties and qualifications, hire persons to fill those offices,
10 employments and positions, and provide for the removal, term, tenure,
11 compensation, fringe benefits, retirement benefits and other conditions of
12 employment of its officers, employees and other positions.

13 6. Borrow, accept, or contract for the services of personnel from any state, the United
14 States, or any other governmental agency, or from any person, firm, association,
15 corporation or other entity.

16 7. Acquire, hold, and dispose of real and personal property by gift, purchase, lease,
17 license, or in other similar manner, in furtherance of the purposes of this compact.

18 8. Charge a fee to each applicant for an initial license or renewal of a license.

19 9. Receive other funds through gifts, grants and appropriations.

20 SECTION 8. Voting requirements.

21 A. Each official shall be entitled to one (1) vote on the compact committee.

22 B. All action taken by the compact committee with regard to the addition of party
23 states as provided in Section 3, the licensure of participants in live racing, and the
24 receipt and disbursement of funds shall require a majority vote of the total number
25 of officials (or their alternates) on the committee. All other action by the compact
26 committee shall require a majority vote of those officials (or their alternates) present
27 and voting.

- 1 C. No action of the compact committee may be taken unless a quorum is present. A
 2 majority of the officials (or their alternates) on the compact committee shall
 3 constitute a quorum.

4 SECTION 9. Administration and management.

- 5 A. The compact committee shall elect annually from among its members a chairman, a
 6 vice chairman, and a secretary/treasurer.

- 7 B. The compact committee shall adopt bylaws for the conduct of its business by a two-
 8 thirds (2/3) vote of the total number of officials (or their alternates) on the
 9 committee at that time and shall have the power by the same vote to amend and
 10 rescind these bylaws. The committee shall publish its bylaws in convenient form
 11 and shall file a copy thereof and a copy of any amendments thereto with the
 12 Secretary of State or equivalent agency of each of the party states.

- 13 C. The compact committee may delegate the day-to-day management and
 14 administration of its duties and responsibilities to an executive director and his
 15 support staff.

- 16 D. Employees of the compact committee shall be considered governmental employees.

17 SECTION 10. Immunity from liability for performance of official responsibilities and
 18 duties.

19 No official of a party state or employee of the compact committee shall be held personally
 20 liable for any good faith act or omission that occurs during the performance and within
 21 the scope of his responsibilities and duties under this compact.

22 ARTICLE V

23 RIGHTS AND RESPONSIBILITIES OF EACH PARTY STATE

24 SECTION 11. Rights and responsibilities of each party state.

- 25 A. By enacting this compact, each party state:

- 26 1. Agrees (i) to accept the decisions of the compact committee regarding the
 27 issuance of compact committee licenses to participants in live racing pursuant

1 to the committee's licensure requirements, and (ii) to reimburse or otherwise
2 pay the expenses of its official representative on the compact committee or his
3 alternate.

- 4 2. Agrees not to treat a notification to an applicant by the compact committee
5 under paragraph 3 of Section 7 that the compact committee will not be able to
6 process his application further as the denial of a license, or to penalize such an
7 applicant in any other way based solely on such a decision by the compact
8 committee.

- 9 3. Reserves the right (i) to charge a fee for the use of a compact committee
10 license in that state, (ii) to apply its own standards in determining whether, on
11 the facts of a particular case, a compact committee license should be
12 suspended or revoked, (iii) to apply its own standards in determining licensure
13 eligibility, under the laws of that party state, for categories of participants in
14 live racing that the compact committee determines not to license and for
15 individual participants in live racing who do not meet the licensure
16 requirements of the compact committee, and (iv) to establish its own licensure
17 standards for the licensure of nonracing employees at pari-mutuel racetracks
18 and employees to separate satellite wagering facilities. Any party state that
19 suspends or revokes a compact committee license shall, through its racing
20 commission or the equivalent thereof or otherwise, promptly notify the
21 compact committee of that suspension or revocation.

- 22 B. No party state shall be held liable for the debts or other financial obligations
23 incurred by the compact committee.

24 ARTICLE VI

25 CONSTRUCTION AND SEVERABILITY

26 SECTION 12. Construction and severability.

27 This compact shall be liberally construed so as to effectuate its purposes. The provisions

1 of this compact shall be severable, and, if any phrase, clause, sentence, or provision of
 2 this compact is declared to be contrary to the Constitution of the United States or of any
 3 party state, or the applicability of this compact to any government, agency, person or
 4 circumstance is held invalid, the validity of the remainder of this compact and the
 5 applicability thereof to any government, agency, person or circumstance shall not be
 6 affected thereby. If all or some portion of this compact is held to be contrary to the
 7 constitution of any party state, the compact shall remain in full force and effect as to the
 8 remaining party states and in full force and effect as to the state affected as to all
 9 severable matters.

10 ➔Section 476. KRS 230.377 is amended to read as follows:

- 11 (1) Other provisions of the Kentucky Revised Statutes notwithstanding, a track may
 12 apply to the racing commission[authority] for simulcasting and intertrack wagering
 13 dates. Applications shall be submitted in accordance with KRS 230.300. The racing
 14 commission[authority] shall not approve the establishment or relocation of a
 15 receiving track within a radius of seventy-five (75) miles of a race track duly
 16 licensed as of July 15, 1992, without the prior written consent of the licensed track
 17 within whose seventy-five (75) mile radius the new receiving track would be
 18 located.
- 19 (2) On or before November 1 of each year, the racing commission[authority] shall
 20 meet and award intertrack wagering dates to all tracks for the entire succeeding
 21 calendar year. In a geographic area containing more than one (1) track within a fifty
 22 (50) mile radius of another track, intertrack wagering, except for quarter horse
 23 racing, shall be limited to simulcasting and wagering on racing of the same breed of
 24 horse as the receiving track was licensed to race on or before July 15, 1998.
- 25 (3) The racing commission[authority] shall approve no more than nine (9) tracks for
 26 participation in horse racing, intertrack wagering, and simulcasting. Any approval
 27 by the racing commission[authority] of a change in location of these tracks shall be

1 subject to the local-approval process contained in KRS 230.380.

2 (4) A track may by administrative regulation be required to simulcast its races to one
3 (1) or more receiving tracks approved for simulcasting and intertrack wagering, as a
4 prerequisite for the issuance of a license pursuant to KRS 230.300, provided that:

5 (a) Each track shall be permitted to exempt one (1) day of racing from
6 simulcasting to both receiving tracks and simulcast facilities, at its discretion;

7 (b) Tracks in a county containing a city of the first class or a consolidated local
8 government and tracks in an urban-county government shall not be required to
9 simulcast to each other or to any other facility in those counties. This
10 provision shall not be construed as requiring tracks within the same county to
11 simulcast to each other; and

12 (c) In the absence of a contract between a host track and a receiving track, the
13 commission shall be split as provided for in KRS 230.378(3).

14 (5) A track may receive simulcasts and conduct interstate wagering thereon subject to
15 the following limitations which shall be in addition to the limitations set forth in
16 KRS 230.3771:

17 (a) A track licensed to conduct thoroughbred racing may receive simulcasts and
18 conduct interstate wagering on all thoroughbred horse races designated as
19 graded stakes races by the Graded Stakes Committee of the Thoroughbred
20 Owners and Breeders Association, Inc., without further consents or approvals.

21 (b) A track licensed to conduct harness racing may receive simulcasts and
22 conduct interstate wagering on all harness horse races (both final and
23 elimination) having a final purse in excess of seventy-five thousand dollars
24 (\$75,000) without further consents or approvals.

25 (c) A track licensed to conduct quarter horse racing may receive simulcasts and
26 conduct interstate wagering on all quarter horse races designated as graded
27 stakes races by the graded stakes committee of the American Quarter Horse

1 Association, without further consents or approvals.

2 (d) A track which applies to the *rac**ing commission*[authority] to receive an
 3 interstate race of a different breed than the breed for which it is licensed by the
 4 *rac**ing commission*[authority] shall receive any simulcast of an interstate race
 5 through the intertrack wagering system upon approval by the *rac**ing*
 6 *com**mission*[authority]. Notwithstanding the foregoing, a track licensed to
 7 conduct horse racing may receive simulcasts and conduct interstate wagering
 8 on quarter horse races, subject to the limitations of KRS 230.3771.

9 (e) A track may receive simulcasts of special event races conducted in other states
 10 or foreign countries which are determined by the *rac**ing*
 11 *com**mission*[authority] to be of sufficient national or international significance
 12 or interest to warrant interstate wagering and if the simulcast of these races
 13 has been approved by the Kentucky Thoroughbred Owners and Breeders
 14 Association, Inc., the Kentucky Division of the Horseman's Benevolent and
 15 Protective Association, for thoroughbred races, and the Kentucky Harness
 16 Horsemen's Association for harness racing, and any track conducting live
 17 horse races of the same breed at the same time as the simulcast race.

18 (f) A track may also receive simulcasts and conduct interstate wagering on
 19 thoroughbred horse races other than those described in paragraphs (a) and (e)
 20 of this subsection if the simulcast of these races has been approved by the
 21 Kentucky Thoroughbred Owners and Breeders Association, Inc., and the
 22 Kentucky Horsemen's Benevolent and Protective Association, for
 23 thoroughbred races, and the Kentucky Harness Horsemen's Association, or its
 24 successor, for harness racing.

25 (g) The consent required by paragraph (f) of this subsection or by subsections
 26 (1)(g) and (2)(g) of KRS 230.3771 shall not be withheld:

27 1. For any reason not specifically related to financial harm to live horse

1 racing; or

2 2. As a condition to the granting of any contractual or other concession not
3 specifically related to the effects of interstate simulcasting on live horse
4 racing in this Commonwealth, taken as a whole.

5 (h) A host track located in this state may receive simulcasting of not more than
6 two (2) full cards of racing from another state, if both tracks race horses of the
7 same breed and if:

8 1. The race date was previously granted by the Kentucky Horse Racing
9 Commission~~[Authority]~~ to conduct live racing at the track located in this
10 state;

11 2. Live racing was canceled due to weather conditions; and

12 3. The consent required by paragraph (e) of this subsection is obtained.

13 (i) The in-state track receiving the simulcast specified in paragraph (h) of this
14 subsection shall offer that simulcast to all participating tracks and simulcast
15 facilities in the intertrack wagering system.

16 (j) All interstate simulcasting shall be conducted in accordance with applicable
17 federal laws.

18 (6) The racing commission~~[authority]~~ may promulgate necessary and reasonable
19 administrative regulations for the purpose of administering the conduct of intertrack
20 or interstate wagering and regulating the conditions under which wagering shall be
21 held and conducted. Administrative regulations shall provide for the prevention of
22 practices detrimental to the public interest and to impose penalties for violations.
23 All administrative regulations shall be in conformity with the provisions of KRS
24 Chapter 13A, KRS 138.510, and this chapter.

25 ➔Section 477. KRS 230.3771 is amended to read as follows:

26 (1) A thoroughbred track licensed to conduct thoroughbred racing may receive
27 interstate simulcasts of thoroughbred horse races and quarter horse races, and

1 conduct interstate wagering thereon, subject to the following limitations:

2 (a) A thoroughbred receiving track may receive interstate simulcasts of
3 thoroughbred races and conduct interstate wagering thereon at any time of day
4 and during any live thoroughbred horse race meet conducted in the
5 Commonwealth of Kentucky so long as the thoroughbred receiving track
6 conducting interstate wagering remits to the thoroughbred host track
7 conducting a live meet, from the first awarded day of its live meet through the
8 last awarded day of the same live meet, the amounts provided in paragraph (j)
9 of this subsection.

10 (b) A thoroughbred host track which receives interstate simulcasts and conducts
11 interstate wagering thereon during the period of time from the first awarded
12 day of its live meet through the last awarded day of its live meet shall offer the
13 simulcasts to all thoroughbred receiving tracks, all harness tracks not subject
14 to the provisions of KRS 230.377(2), and all simulcast facilities through the
15 intertrack wagering system.

16 (c) Except as otherwise prohibited by law, a receiving track shall conduct
17 intertrack wagering on all live races of all thoroughbred host tracks on any day
18 on which it receives an interstate simulcast for the purpose of conducting
19 interstate wagering.

20 (d) No host track shall require that any receiving track or simulcast facility
21 receive the interstate simulcast.

22 (e) If more than one (1) thoroughbred track conducts live racing at the same time
23 on the same day, no track or simulcast facility may receive an interstate
24 simulcast of thoroughbred races unless all thoroughbred tracks conducting
25 live racing at the same time of day agree upon all interstate simulcasts to be
26 received and the division of the thoroughbred host track's commission. If more
27 than one (1) thoroughbred track conducts live racing at different times on the

1 same day, the thoroughbred host track with the highest average daily handle,
2 based on the preceding year, shall be the host track for purposes of splitting
3 the commissions earned on interstate wagering at receiving tracks within the
4 Commonwealth. For purposes of this subsection, average daily handle
5 includes live handle, intertrack wagering handle, and simulcast facility handle.
6 Also for purposes of this subsection, the time of day during which a host track
7 conducts live racing commences with its first published post time and
8 concludes ten (10) minutes after the published post time of its last race of the
9 day, regardless of actual post times.

10 (f) Each thoroughbred track which desires to conduct interstate wagering
11 pursuant to the provisions of this subsection shall during each year make
12 application to the *racine commission*~~[authority]~~ for no less than one hundred
13 percent (100%) of the number of racing days awarded to the track in 1994 and
14 one hundred percent (100%) of the number of races scheduled to be run by the
15 track in 1993.

16 (g) Notwithstanding paragraph (f) of this subsection, any thoroughbred track may
17 apply for less than one hundred percent (100%) of the number of racing days
18 awarded to the track in 1994 or one hundred percent (100%) of the number of
19 races scheduled to be run by the track in 1993, if written approval is obtained
20 from the Kentucky Horsemen's Benevolent and Protective Association and the
21 Kentucky Thoroughbred Owners and Breeders Association, Inc.

22 (h) A separate accounting on all interstate simulcasting shall be submitted to the
23 *racine commission*~~[authority]~~. The accounting shall be submitted in the same
24 format and at the same time that the report for intertrack wagering is
25 submitted.

26 (i) If the only simulcast or simulcasts a track participating as a host track makes
27 available for interstate wagering through this state's intertrack wagering

system on any race day are thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., then the commission of the receiving track on these interstate wagers shall be split as prescribed by KRS 230.378(3); otherwise, the commission of the receiving track shall be split as prescribed by paragraph (j) of this subsection. Interstate simulcasts received by a thoroughbred host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (b), (c), (e), and (f) of this subsection.

(j) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;
2. Twenty-five percent (25%) to the thoroughbred host track designated by paragraphs (a) and (e) of this subsection. However, if the race does not occur between the first awarded day of a live meet and the last awarded day of the same live meet, an additional twenty-five percent (25%) shall be retained by the receiving track where the interstate wagering occurs;
3. Twenty-five percent (25%) to the purse program of the receiving track where the interstate wagering occurs; and
4. Twenty-five percent (25%) to the purse program of the thoroughbred host track designated by paragraphs (a) and (e) of this subsection. However, if the race does not occur between the first awarded day of a live meet and the last awarded day of the same live meet, then an additional twenty-five percent (25%) shall be paid to the purse program of the receiving track where the interstate wagering occurs.

- 1 (k) A simulcast facility's commission on interstate wagering on thoroughbred
2 racing, after deduction of applicable taxes and any amounts required to be
3 paid by contract to the track from which the interstate simulcast originated,
4 shall be split as provided in KRS 230.380(9).
- 5 (2) A harness track licensed to conduct harness racing may receive interstate simulcasts
6 of harness horse races and conduct interstate wagering thereon subject to the
7 following limitations:
- 8 (a) A harness receiving track may receive interstate simulcasts of harness races
9 and quarter horse races, and conduct interstate wagering thereon at any time of
10 day and during the course of any live harness horse race meet conducted in the
11 Commonwealth of Kentucky so long as the harness receiving track conducting
12 interstate wagering remits to the harness host track conducting a live meet,
13 from the first awarded day of its live meet through the last awarded day of the
14 same live meet, the amounts provided in paragraph (j) of this subsection.
- 15 (b) A harness host track which receives an interstate simulcast and conducts
16 interstate wagering thereon during its live race meet shall offer the simulcasts
17 to all thoroughbred receiving tracks not subject to the provisions of KRS
18 230.377(2), all harness tracks, and all simulcast facilities through the
19 intertrack wagering system.
- 20 (c) Except as otherwise prohibited by law, a harness receiving track or a simulcast
21 facility shall conduct intertrack wagering on all live races of a harness host
22 track on any day it receives an interstate simulcast from a harness host track.
- 23 (d) No host track shall require that any receiving track or simulcast facility
24 receive the interstate simulcast.
- 25 (e) If more than one (1) harness track conducts live racing at the same time on the
26 same day, no track or simulcast facility may receive an interstate simulcast on
27 harness races unless all harness tracks conducting live racing at that time of

day agree upon the interstate simulcast to be received and the division of the harness host track's commission. If more than one (1) harness track conducts live racing at different times on the same day, the harness host track with the highest average daily handle, based on the preceding year, shall be the host track for purposes of splitting the commissions earned on interstate wagering at receiving tracks within the Commonwealth. For purposes of this subsection, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle. Also for purposes of this subsection, the time of day during which a host track conducts live racing commences with its first published post time and conclude ten (10) minutes after the published post time of its last race of the day, regardless of actual post times.

(f) Each harness track which desires to conduct interstate wagering pursuant to the provisions of this subsection shall during each year make application to the racing commission[authority] for no less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 and one hundred percent (100%) of the number of races scheduled to be run by the track in 1993.

(g) Notwithstanding paragraph (f) of this subsection, any harness track may apply for less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 or one hundred percent (100%) of the number of races scheduled to be run by the track in 1993, if written approval is obtained from the Kentucky Harness Horsemen's Association, or its successor.

(h) A separate accounting on all interstate simulcasting shall be submitted to the racing commission[authority]. This accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted.

(i) If the only simulcast or simulcasts a track participating as a harness host track

1 makes available for interstate wagering through this state's intertrack wagering
2 system on any race day are harness horse races (both final and elimination)
3 having a final purse in excess of seventy-five thousand dollars (\$75,000), then
4 the commission of the receiving track on these interstate wagers shall be split
5 as prescribed by KRS 230.378(3); otherwise, the commission of the receiving
6 track shall be split as prescribed by paragraph (j) of this subsection. Interstate
7 simulcasts received by a harness host track under the conditions set forth in
8 this paragraph shall not be subject to the conditions set forth in paragraphs (b),
9 (c), (e), and (f) of this subsection.

10 (j) A receiving track's commission on interstate wagering, after deduction of
11 applicable taxes and any amounts required to be paid by contract to the track
12 from which the interstate simulcast originated, shall be split as follows:

- 13 1. Twenty-five percent (25%) to the receiving track where the interstate
14 wagering occurs;
- 15 2. Twenty-five percent (25%) to the harness host track designated by
16 paragraphs (a) and (e) of this subsection. However, if no live meet is
17 occurring, an additional twenty-five percent (25%) shall be retained by
18 the receiving track where the interstate wagering occurs;
- 19 3. Twenty-five percent (25%) to the purse program of the receiving track
20 where the interstate wagering occurs; and
- 21 4. Twenty-five percent (25%) to the purse program of the harness host
22 track designated by paragraphs (a) and (e) of this subsection. However,
23 if no live meet is occurring, an additional twenty-five percent (25%)
24 shall be paid to the purse program of the receiving track where the
25 interstate wagering occurs.

26 (k) A simulcast facility's commission on interstate wagering on harness races,
27 after deduction of applicable taxes and any amount required to be paid by

1 contract to the track from which the interstate simulcast originated, shall be
2 split as provided in KRS 230.380(9).

3 (3) A harness track may only receive interstate simulcasts of thoroughbred horse races
4 and conduct interstate wagering thereon as provided in subsection (1)(b) of this
5 section. A thoroughbred track may only receive interstate simulcasts of harness
6 horse races and conduct interstate wagering thereon as provided in subsection (2)(b)
7 of this section. A simulcast facility may only receive interstate simulcasts of
8 thoroughbred and harness horse races and conduct interstate wagering thereon as
9 provided in subsections (1)(b) and (2)(b) of this section.

10 (4) (a) A thoroughbred track licensed to conduct horse racing may receive interstate
11 simulcasts of quarter horse races and conduct interstate wagering thereon,
12 subject to the limitations stated in paragraph (b) of this subsection.

13 (b) A receiving track's commission on interstate wagering, after deduction of
14 applicable taxes and any amounts required to be paid by contract to the track
15 from which the interstate simulcast originated, shall be split as follows:

- 16 1. Twenty-five percent (25%) to the receiving track where the interstate
17 wagering occurs;
- 18 2. Twenty-five percent (25%) to the host track; and
- 19 3. Fifty percent (50%) to the quarter horse purse program within this state,
20 to be allocated by the American Quarter Horse Association or its
21 successor to supplement purses for quarter horse races in this state.

22 (5) (a) A harness track licensed to conduct horse racing may receive interstate
23 simulcasts of quarter horse races and conduct interstate wagering thereon,
24 subject to the limitations stated in paragraphs (b) and (c) of this subsection.

25 (b) A receiving track's commission on interstate wagering, after deduction of
26 applicable taxes and any amounts required to be paid by contract to the track
27 from which the interstate simulcast originated, shall be split as follows:

- 1 1. Twenty-five percent (25%) to the purse program of the receiving track;
- 2 2. Twenty-five percent (25%) to the purse program of the host track;
- 3 3. Twenty-five percent (25%) to the receiving track; and
- 4 4. Twenty-five percent (25%) to the host track.

5 (c) When a quarter horse race is run at a Kentucky race track, the commission to
6 the Kentucky Quarter Horse Purse Program shall be twenty-two percent (22%)
7 from the host track's purse share.

8 (6) Other provisions of the Kentucky Revised Statutes notwithstanding, any track in a
9 geographic area that contains more than one (1) track within a fifty (50) mile radius
10 of any other track may only receive interstate simulcasts on racing of the same breed
11 of horse as the track was licensed to race on or before July 15, 1998, except any
12 track may receive interstate simulcasts on quarter horse races.

13 ➔Section 478. KRS 230.3773 is amended to read as follows:

14 (1) As used in this section, "interstate common wagering pool" means a pari-mutuel
15 pool established in one (1) horse racing jurisdiction that is combined with
16 comparable pari-mutuel pools from at least one (1) horse racing jurisdiction for the
17 purpose of establishing payoff prices in the various jurisdictions.

18 (2) Interstate wagers at a receiving track may form an interstate common wagering pool
19 with wagers at a track in another jurisdiction, and the receiving track may adopt the
20 commission and breakage rates of the track at which the race is being run. The
21 racing commission~~[authority]~~ may also approve types of wagering, distribution of
22 winnings, and rules of racing for interstate common wagering pools that are
23 different from those that normally apply in Kentucky.

24 (3) Wagers placed on any races run at track in Kentucky may be combined with wagers
25 placed at tracks in other jurisdictions to form an interstate common wagering pool
26 located either within or outside Kentucky.

27 (4) A track's participation in an interstate common wagering pool does not cause that

1 track to be considered to be doing business in any jurisdiction other than the
2 jurisdiction where the track is physically located. Excise taxes and commission rates
3 may not be imposed on any interstate common wagering pool other than on
4 amounts actually wagered in Kentucky. The combination of pari-mutuel pools as
5 provided in this section constitutes the communication of wagering information for
6 purposes of calculating odds and payoffs only and does not constitute the transfer of
7 wagers in interstate commerce.

8 ➔Section 479. KRS 230.378 is amended to read as follows:

- 9 (1) A receiving track may accept wagers only at the track where it is licensed to
10 conduct its race meeting or conduct intertrack wagering. A receiving track may
11 accept wagers through a telephone account wagering system. Wagers at a receiving
12 track, simulcast facility, or on telephone account wagering shall form a common
13 pool with wagers at a host track. This common pool requirement shall not apply to
14 wagers made in connection with interstate simulcasting pursuant to KRS 230.3771;
15 however, common pools shall be encouraged.
- 16 (2) Except as provided in KRS 230.3771(2), the commission of a receiving track,
17 simulcast facility, or on telephone account wagering shall be the same as the
18 commission of the host track as determined in KRS 230.3615 or 230.750.
- 19 (3) In the absence of a valid contract with a horsemen's organization, the commission of
20 a receiving track, after deduction of applicable taxes and other applicable
21 deductions, shall be split as follows: twenty-two percent (22%) to the host track,
22 twenty-two percent (22%) to the purse program at the host track, twenty-two
23 percent (22%) to the receiving track and twenty-two percent (22%) to the purse
24 program at the receiving track. Twelve percent (12%) of the commission shall be
25 allocated evenly between the host track and the receiving track to cover the cost of
26 simulcasting, unless otherwise agreed to by contract.
- 27 (4) The deduction for the backside improvement fund, as provided for in KRS

230.3615(4) shall not apply to the commission or pari-mutuel tax of a receiving track or telephone account wagering.

- (5) A receiving track shall be exempt from the admissions tax levied in KRS 138.480 and from any license fee imposed by statute or regulation by the *racing commission*~~[authority]~~.

→Section 480. KRS 230.379 is amended to read as follows:

- (1) A track may engage in telephone account wagering, if all moneys used to place telephone account wagers are on deposit in an amount sufficient to cover the wagers at the track where the account is opened. All moneys wagered by telephone account wagering shall be subject to the applicable pari-mutuel tax levied in KRS 138.510 and shall form a common pool with other pari-mutuel pools at the track for each posted race. The *racing commission*~~[authority]~~ shall have authority to promulgate necessary and reasonable administrative regulations to regulate the conduct of telephone account wagering, including regulations for the deposit of funds by credit or debit cards or other means of electronic funds transfer.

- (2) A track shall accept and tabulate a telephone account wager only from the holder of a telephone wagering account. No person shall directly or indirectly act as an intermediary, transmitter, or agent in the placing of wagers for a holder of a telephone wagering account. No person shall in any manner place a wager through telephone account wagering, on behalf of a holder of a telephone wagering account. Only the holder of a telephone wagering account shall place a telephone wager. Any person violating this subsection shall be guilty of a Class A misdemeanor.

- (3) Telephone account wagering conducted in accordance with the provisions of this section shall not be considered a violation of KRS 528.110.

→Section 481. KRS 230.380 is amended to read as follows:

- (1) Any track licensed by the *racing commission*~~[authority]~~ to conduct horse racing and desiring to establish a simulcast facility shall apply for and may receive

1 approval from the *racing commission*~~[authority]~~ for each simulcast facility. Prior to
2 considering an application for approval of a simulcast facility, the *racing*
3 *commission*~~[authority]~~ shall notify by regular mail, each state senator, state
4 representative, county judge/executive, and mayor in the jurisdiction in which the
5 proposed simulcast facility is located, at least ten (10) days in advance of the *racing*
6 *commission*~~[authority]~~ meeting at which the application is to be considered or voted
7 upon. Consideration of an application shall be based on criteria contained in
8 administrative regulations promulgated under KRS 230.300. Approval, if granted,
9 shall be granted for a term of one (1) calendar year.

10 (2) A track or tracks may proceed with the establishment of a simulcast facility unless,
11 within sixty (60) days of the date on which the *racing commission*~~[authority]~~
12 approved the facility, the governing body of the local government jurisdiction in
13 which the facility is to be located votes, by simple majority of those voting, to
14 disapprove the establishment of the simulcast facility. For the purposes of this
15 section, "governing body" means, in an incorporated area, the board of aldermen,
16 city council or board of commissioners; in a county, the fiscal court; in an urban-
17 county government, the urban-county council, or in a charter county, the legislative
18 body created in accordance with KRS 67.825 to 67.875.

19 (3) The *racing commission*~~[authority]~~ shall not approve the establishment of any
20 simulcast facility within a radius of fifty (50) miles of a licensed track. The *racing*
21 *commission*~~[authority]~~ may approve the establishment of one (1) simulcast facility
22 within a radius of greater than fifty (50) miles but less than seventy-five (75) miles
23 of a licensed track, but the facility shall not be approved to operate without the prior
24 written consent of the licensed track within whose seventy-five (75) mile radius the
25 facility is located.

26 (4) The *racing commission*~~[authority]~~ may promulgate administrative regulations as it
27 deems appropriate to protect the integrity of pari-mutuel wagering at any simulcast

1 facility.

2 (5) Licensed tracks conducting horse racing may enter into joint agreements to establish
3 or operate one (1) or more simulcast facilities, on terms and conditions as the
4 participating tracks may determine. Any agreements respecting these arrangements
5 shall be filed with the *racing commission*~~[authority]~~, and applications for simulcast
6 facilities shall be filed by and licenses may be issued to, these licensed tracks by the
7 *racing commission*~~[authority]~~.

8 (6) A simulcast facility may be established and operated on property that is owned or
9 leased and which is not used solely for the operation of a simulcast facility;
10 provided however, that a simulcast facility may not be established on the premises
11 of a lottery vendor.

12 (7) A simulcast facility shall not be subject to and shall not pay any excise tax imposed
13 pursuant to KRS 138.510, any license tax imposed under KRS 137.170, or any
14 admission tax imposed under KRS 138.480.

15 (8) One percent (1%) of all moneys wagered at a simulcast facility shall be dedicated
16 for local economic development and shall be allocated as follows:

17 (a) If a simulcast facility is located in an incorporated area, seventy-five percent
18 (75%) shall be allocated to the governing body of the city in which the facility
19 is located, and twenty-five percent (25%) to the governing body of the county
20 in which the facility is located.

21 (b) If a simulcast facility is located in an unincorporated area, all moneys shall be
22 allocated to the governing body of the county or charter county in which the
23 facility is located.

24 (9) (a) After the deduction of moneys under subsection (8), simulcast facility shall
25 deduct a commission allowed under KRS 230.3615 with respect to all wagers
26 made at the simulcast facility. The commission, less moneys allocated in
27 subsection (8) of this section, shall be split as follows:

- 1 1. Thirty percent (30%) shall be allocated to the host track;
- 2 2. Forty-six and one-half percent (46.5%) to the purse program at the host
- 3 track;
- 4 3. Thirteen and one-half percent (13.5%) to be retained by the track or
- 5 tracks owning the simulcast facility for the purpose of application to
- 6 expenses incurred in connection therewith;
- 7 4. Six percent (6%) to be allocated to the Kentucky Thoroughbred Owners
- 8 and Breeders, Inc., to be expended as follows:
- 9 a. Up to three percent (3%) for capital improvements and promotion
- 10 of off-track betting; and
- 11 b. The remainder for marketing and promoting the Kentucky
- 12 thoroughbred industry; and
- 13 5. Four percent (4%) to be allocated to the racing commission~~[authority]~~
- 14 to be used for purses at county fairs in Kentucky licensed and approved
- 15 by the racing commission~~[authority]~~, and for the standardbred sires
- 16 stakes program established under KRS 230.770.
- 17 (b) The commission of a simulcast facility derived from interstate wagering shall
- 18 be reduced by any amounts required to be paid by contract to the host track or
- 19 track conducting the live race before it is divided as set forth in this section.
- 20 No simulcast facility may receive any interstate simulcast except with the
- 21 approval of the live Kentucky host track.
- 22 (c) The Kentucky Thoroughbred Owners and Breeders, Inc., shall annually report
- 23 to the racing commission~~[authority]~~ on all money expended in accordance
- 24 with subsection (9)(a)4. of this section. The report shall be in the form
- 25 required, and provide all information required by the racing
- 26 commission~~[authority]~~.
- 27 (10) Subsections (1) and (2) of this section shall also apply to the establishment by a

1 track of a noncontiguous facility in a county in which pari-mutuel racing and
 2 wagering is not being conducted. Subsection (8) of this section shall also apply to a
 3 noncontiguous race track facility referenced in this subsection, unless there is a
 4 written agreement to the contrary between the track establishing the facility and the
 5 governing body of the local government jurisdiction in which the facility is to be
 6 established.

7 ➔Section 482. KRS 230.398 is amended to read as follows:

8 All sums reported and paid to the *racine commission*~~[authority]~~ under the provisions of
 9 KRS 230.361 to 230.373 by any licensee conducting a harness race meeting shall be used
 10 by it for purses at harness racing events at county fairs within the Commonwealth of
 11 Kentucky that have been licensed and approved by it. The *racine commission*~~[authority]~~
 12 shall have the authority to promulgate administrative regulations as may be necessary for
 13 the conduct of these races.

14 ➔Section 483. KRS 230.400 is amended to read as follows:

15 (1) There is hereby created a trust and revolving fund for the Kentucky Horse Racing
 16 *Commission*~~[Authority]~~, designated as the Kentucky thoroughbred development
 17 fund, consisting of money allocated to the fund under the provisions of KRS
 18 138.510, together with other money contributed to or allocated to the fund from all
 19 other sources. Money to the credit of the Kentucky thoroughbred development fund
 20 shall be distributed by the Treasurer for the purposes of this section upon
 21 authorization of the Kentucky Horse Racing *Commission*~~[Authority]~~ and upon
 22 approval of the secretary of the Finance and Administration Cabinet. Money from
 23 the Kentucky thoroughbred development fund shall be allocated to each licensed
 24 association in an amount equal to the amount the association contributed to the
 25 fund. Money to the credit of the Kentucky thoroughbred development fund at the
 26 end of each fiscal year shall not lapse, but shall be carried forward in such fund to
 27 the succeeding fiscal year.

1 (2) There is hereby established, under the general jurisdiction of the Kentucky Horse
 2 Racing Commission[Authority], a Kentucky Thoroughbred Development Fund
 3 Advisory Committee. The advisory committee shall consist of five (5) members, all
 4 of whom shall be residents of Kentucky, to be appointed by the chairman of the
 5 Kentucky Horse Racing Commission[Authority] by July 1 of each year. The
 6 committee shall consist of two (2) thoroughbred breeders recommended by the
 7 Kentucky Thoroughbred Owners and Breeders, Inc.; one (1) thoroughbred owner
 8 recommended by the Kentucky division of the Horsemen's Benevolent and
 9 Protective Association; one (1) officer or director of a licensed association
 10 conducting thoroughbred racing in Kentucky, recommended by action of all of the
 11 licensed associations conducting thoroughbred racing in Kentucky; and one (1)
 12 member of the Kentucky Horse Racing Commission[Authority]. If any member
 13 other than the racing commission[authority] member has not been recommended
 14 for appointment by July 1 of each year, the chairman of the Kentucky Horse Racing
 15 Commission[Authority] shall make an appointment for the organization or
 16 organizations failing to recommend a member of the committee. The members of
 17 the advisory committee shall serve without compensation, but shall be entitled to
 18 reimbursement for all expenses incurred in the discharge of official business. The
 19 advisory committee shall select from its membership annually a chairman and a vice
 20 chairman.

21 (3) (a) The Kentucky Thoroughbred Development Fund Committee shall advise and
 22 assist the Kentucky Horse Racing Commission[Authority] in the development
 23 of the supplemental purse program provided herein for Kentucky bred
 24 thoroughbreds, shall make recommendations to the racing
 25 commission[authority] from time to time with respect to the establishment of
 26 guidelines, administrative regulations for the provision of supplemental
 27 purses, the amount thereof, the races for which the purses are to be provided

1 and the conditions thereof, manner and method of payment of supplemental
2 purses, registry of thoroughbred stallions standing within the Commonwealth
3 of Kentucky, registry of Kentucky bred thoroughbreds for purposes of this
4 section, nature and type of forms and reports to be employed and required in
5 connection with the establishment, provision for, award and payment of
6 supplemental purses, and with respect to all other matters necessary in
7 connection with the carrying out of the intent and purposes of this section.

8 (b) The Kentucky Horse Racing Commission~~[Authority]~~ shall employ qualified
9 personnel as may be required to assist the racing commission~~[authority]~~ and
10 the advisory committee in carrying out the provisions of this section. These
11 persons shall serve at the pleasure of the racing commission~~[authority]~~ and
12 compensation for these personnel shall be fixed by the racing
13 commission~~[authority]~~. The compensation of these personnel and the
14 necessary expenses incurred by the racing commission~~[authority]~~ or by the
15 committee in carrying out the provisions of this section shall be paid out of the
16 Kentucky thoroughbred development fund.

17 (4) The Kentucky Horse Racing Commission~~[Authority]~~, with the advice and
18 assistance of the Kentucky Thoroughbred Development Fund Advisory Committee,
19 shall use the Kentucky thoroughbred development fund to promote, enhance,
20 improve, and encourage the further and continued development of the thoroughbred
21 breeding industry in Kentucky by providing, out of the Kentucky thoroughbred
22 development fund, supplemental purses for designated stakes, handicap, allowance,
23 and nonclaiming maiden races contested at licensed thoroughbred race meetings in
24 Kentucky, the awarding and payment of which supplemental purses shall be
25 conditioned upon the winning or placing in designated races by Kentucky bred
26 thoroughbred horses. Any supplemental purse provided for a designated race shall
27 be apportioned among the winning and placing horses in the same proportion as the

1 stake or purse provided for the race by the racing association. Winning or placing as
 2 used in this section shall include those horses finishing first, second, third, and
 3 fourth in the races. That portion of the supplemental purse provided for any
 4 designated race for a winning or placing finish shall be awarded and paid to the
 5 owner of the horse so finishing only if the horse is a Kentucky bred thoroughbred
 6 duly registered with the official registrar. Any portion of the supplemental purse
 7 which is not awarded and paid over shall be returned to the Kentucky thoroughbred
 8 development fund.

9 (5) (a) For purposes of this section, the term Kentucky thoroughbred stallion shall
 10 mean and include only a thoroughbred stallion standing the entire breeding
 11 season in Kentucky and registered as a Kentucky thoroughbred stallion with
 12 the official registrar of the Kentucky thoroughbred development fund.

13 (b) Except for thoroughbred horses foaled prior to January 1, 1980, the term
 14 Kentucky bred thoroughbreds for purposes of this section, shall mean and
 15 include only thoroughbred horses sired by Kentucky thoroughbred stallions
 16 foaled in Kentucky and registered as a Kentucky bred thoroughbred with the
 17 official registrar of the Kentucky thoroughbred development fund.

18 (c) Any thoroughbred horse foaled prior to January 1, 1980, may qualify as a
 19 Kentucky bred thoroughbred for purposes of this section if the horse was
 20 foaled in Kentucky and if the sire of the thoroughbred was standing at stud
 21 within Kentucky at the time of conception of such thoroughbred, provided the
 22 thoroughbred is duly registered as a Kentucky bred thoroughbred with the
 23 official registrar of the Kentucky thoroughbred development fund.

24 (d) In order for an owner of a Kentucky sired thoroughbred to be eligible to
 25 demand, claim, and receive a portion of a supplemental purse provided by the
 26 Kentucky thoroughbred development fund, the thoroughbred horse winning or
 27 placing in a designated race for which a supplemental purse has been provided

1 by the Kentucky thoroughbred development fund must have been duly
 2 registered as a Kentucky bred thoroughbred with the official registrar of the
 3 Kentucky thoroughbred development fund prior to entry in the race.

4 (6) (a) Kentucky Thoroughbred Owners and Breeders, Inc., is hereby recognized and
 5 designated as the sole official registrar of the Kentucky thoroughbred
 6 development fund for the purposes of registering Kentucky thoroughbred
 7 stallions and Kentucky bred thoroughbreds in accord with the terms of this
 8 section and any administrative regulations promulgated by the Kentucky
 9 Horse Racing Commission[Authority]. When a Kentucky bred thoroughbred
 10 is registered with the official registrar, the registrar shall be authorized to
 11 stamp the Jockey Club certificate issued for the thoroughbred with the seal of
 12 the registrar, certifying that the thoroughbred is a duly qualified and registered
 13 Kentucky bred thoroughbred for purposes of this section. The registrar may
 14 establish and charge, with the approval of the racing commission[authority],
 15 reasonable registration fees for its services in the registration of Kentucky
 16 thoroughbred stallions and in the registration of Kentucky bred thoroughbreds.
 17 Registration records of the registrar shall be public records and open to public
 18 inspection at all normal business hours and times.

19 (b) Any interested party aggrieved by the failure or refusal of the official registrar
 20 to register a stallion or thoroughbred as a Kentucky stallion or as a Kentucky
 21 bred thoroughbred shall have the right to file with the racing
 22 commission[authority], within thirty (30) days of such failure or refusal of the
 23 registrar, petition seeking registration of the thoroughbred. The racing
 24 commission[authority] shall promptly hear the matter de novo and issue its
 25 order directing the official registrar to register or not to register as it may be
 26 determined by the racing commission[authority].

27 (7) The Kentucky Horse Racing Commission[Authority] shall promulgate

1 administrative regulations as may be necessary to carry out the provisions and
 2 purposes of this section, including the promulgation of administrative regulations
 3 and forms as may be appropriate for the proper registration of Kentucky stallions
 4 and Kentucky bred thoroughbreds with the official registrar, and shall administer
 5 the Kentucky bred thoroughbred program created hereby in a manner best designed
 6 to promote and aid in the further development of the thoroughbred breeding
 7 industry in Kentucky, to upgrade the quality of thoroughbred racing in Kentucky,
 8 and to improve the quality of thoroughbred horses bred in Kentucky.

9 ➔Section 484. KRS 230.750 is amended to read as follows:

10 The commission, including the tax levied in KRS 138.510, deducted from the gross
 11 amount wagered by the person, corporation, or association which operates a harness horse
 12 track under the jurisdiction of the racing commission~~[authority]~~ at which betting is
 13 conducted through a pari-mutuel or other similar system shall not exceed eighteen percent
 14 (18%) of the gross amount handled on straight wagering pools and twenty-five percent
 15 (25%) of the gross amount handled on multiple wagering pools, plus the breaks, which
 16 shall be made and calculated to the dime. Multiple wagering pools shall include daily
 17 double, perfecta, double perfecta, quinella, double quinella, trifecta, and other types of
 18 exotic betting. An amount equal to three percent (3%) of the total amount wagered and
 19 included in the commission of a harness host track shall be allocated by the harness host
 20 track in the following manner. Two percent (2%) shall be allocated to the host for capital
 21 improvements, promotions, including advertising, or purses, as the host track shall elect.
 22 Three-quarters of one percent (3/4 of 1%) shall be allocated to overnight purses. One-
 23 quarter of one percent (1/4 of 1%) shall be allocated to the Kentucky standardbred,
 24 quarterhorse, Appaloosa, and Arabian development fund. This allocation shall be made
 25 after deduction from the commission of the pari-mutuel tax but prior to any other
 26 deduction, allocation or division of the commission.

27 ➔Section 485. KRS 230.752 is amended to read as follows:

1 All harness racetracks licensed by the *racine commission*[authority] shall not be required
 2 to pay the excise tax imposed under KRS 138.510(2), and the amount that would have
 3 been paid under those subsections shall be retained by the track to promote and maintain
 4 its facilities and its live meet.

5 ➔Section 486. KRS 230.760 is amended to read as follows:

6 No licensee conducting a race or meet hereunder, no member of the *racine*
 7 *commission*[authority], judge, or assistant official appointed to act as such pursuant to
 8 this chapter, shall be liable for damages to any person, association, or corporation for any
 9 cause whatsoever arising out of or from the performance by the licensee, member of the
 10 *racine commission*[authority], judge, or assistant official of his duties and the exercise of
 11 his discretion with respect thereto, so long as he acted in good faith, without malice or
 12 improper motive.

13 ➔Section 487. KRS 230.770 is amended to read as follows:

14 (1) There is hereby created a trust and revolving fund for the Kentucky Horse Racing
 15 *Commission*[Authority], designated as the Kentucky standardbred, quarter horse,
 16 Appaloosa, and Arabian development fund, consisting of money allocated to the
 17 fund under the provisions of KRS 138.510, together with any other money
 18 contributed to or allocated to the fund from all other sources. For the purposes of
 19 this section, "development fund" or "fund" means the Kentucky standardbred,
 20 quarter horse, Appaloosa, and Arabian development fund. Money to the credit of
 21 the development fund shall be distributed by the Treasurer for the purposes
 22 provided in this section, upon authorization of the Kentucky Horse Racing
 23 *Commission*[Authority] and upon approval of the secretary of the Finance and
 24 Administration Cabinet. Money to the credit of the fund at the end of each fiscal
 25 year shall not lapse but shall be carried forward in the fund to the succeeding fiscal
 26 year.

27 (2) The Kentucky Horse Racing *Commission*[Authority] shall use the development

1 fund to promote races, and to provide purses for races, for horses sired by stallions
 2 standing within the Commonwealth of Kentucky or as provided in subsection (2)(b)
 3 of this section. For purposes of this section, the term "stallions standing within the
 4 Commonwealth of Kentucky" shall include only stallions registered with the
 5 Kentucky Horse Racing Commission[Authority].

6 (a) The racing commission[authority] shall provide for distribution of money to
 7 the credit of the development fund to persons, corporations, or associations
 8 operating licensed standardbred race tracks within Kentucky on an equitable
 9 basis, for the purpose of conducting separate races for two (2) and three (3)
 10 year old fillies and colts, both trotting and pacing, sired by standardbred
 11 stallions standing within the Commonwealth of Kentucky at the time of
 12 conception. Notwithstanding other provisions hereof, a filly or colt foaled
 13 prior to January 1, 1978, shall be eligible to participate in races, a part of the
 14 purse for which is provided by money of the development fund, if the sire of
 15 the filly or colt was standing at stud within the Commonwealth of Kentucky at
 16 the time of conception.

17 (b) The racing commission[authority] shall provide for distribution of money to
 18 the credit of the development fund to persons, corporations, or associations
 19 operating licensed racetracks within Kentucky conducting quarter horse,
 20 Appaloosa, or Arabian racing, on an equitable basis as determined by the
 21 racing commission[authority].

22 (3) Money distributed from the development fund to licensed standardbred race tracks
 23 within the Commonwealth shall be used exclusively to promote races and provide
 24 purses for races conditioned to admit only standardbred colts and fillies sired by
 25 standardbred stallions standing within the Commonwealth of Kentucky.

26 (4) The Kentucky Horse Racing Commission[Authority] shall fix the amount of money
 27 to be paid from the development fund to be added to the purse provided for each

1 race by the licensed operator of the race track; shall fix the dates and conditions of
2 races to be held by licensed race tracks; and shall promulgate administrative
3 regulations necessary to carry out the provisions of this section. Money from the
4 fund shall be allocated to each breed of horse represented in the fund in an amount
5 equal to the amount the breed has contributed to the fund.

6 (5) The Kentucky Horse Racing Commission[Authority] may promulgate
7 administrative regulations necessary to determine the eligibility of horses for entry
8 in races for which a portion of the purse is provided by money of the development
9 fund, including administrative regulations for the registration of stallions standing
10 within Kentucky and progeny thereof, including registration of progeny of the
11 stallions foaled prior to June 19, 1976. Registration of stallions standing within
12 Kentucky may occur any time during the breeding season and shall occur no later
13 than July 1 of each year.

14 (6) The Kentucky Horse Racing Commission[Authority] shall appoint qualified
15 personnel necessary to supervise registration of, or determination of eligibility of,
16 horses entitled to entry in races, a portion of the purse of which is provided by the
17 development fund, to assist the racing commission[authority] in determining the
18 conditions, class, and quality of the fund supported race program to be established
19 hereunder so as to carry out the purposes of this section. These persons shall serve
20 at the pleasure of the racing commission[authority] and compensation shall be
21 fixed by the racing commission[authority]. The compensation of personnel and
22 necessary expenses shall be paid out of the development fund. The racing
23 commission[authority] shall promulgate administrative regulations to carry out the
24 provisions of this section, and shall administer the Kentucky sire stakes program
25 created hereby in a manner best designed to promote and aid in the development of
26 the horse industry in Kentucky; to upgrade the quality of racing in Kentucky; and to
27 improve the quality of horses bred in Kentucky.

➔Section 488. KRS 230.775 is amended to read as follows:

As used in KRS 230.775 to 230.785, unless the context requires otherwise:

(1) "Hub" means an international wagering hub, a business which, through a qualified subscriber-based service, conducts pari-mutuel wagering on the horse races that it simulcasts and other races that it carries in its wagering menu;

(2) "Qualified subscriber-based service" means any information service or system, including but not limited to a closed-loop system, that uses:

(a) A device or combination of devices authorized and operated exclusively for placing, receiving, or otherwise making pari-mutuel wagers on horse races by a customer subscriber base through accounts established with the operator of the hub;

(b) An effective customer verification and age verification system; and

(c) Appropriate data security standards to prevent unauthorized access by nonsubscribers or minors;

(3) "Foreign jurisdiction" means states other than Kentucky, a territory of the United States, a foreign country, or any political subdivision thereof;

(4) "Racing commission[Authority]" means the Kentucky Horse Racing Commission[Authority] or its successor[authority]; and

(5) "Call center" means that portion of a qualified subscriber-based service that is physically located in the Commonwealth, where wagers are placed, received, or otherwise made by a customer subscriber base through accounts established with the operator of the hub.

➔Section 489. KRS 230.779 is amended to read as follows:

(1) Notwithstanding KRS 230.361(1), a licensee may operate the hub either independently or in association with one (1) or more racetracks licensed by the racing commission[authority] to run live races and conduct pari-mutuel wagering in Kentucky. Hub operations may be physically located on property other than that

operated by a racetrack and may accept wagers at that location and shall comply with the Interstate Horseracing Act, 15 U.S.C. secs. 3001 to 3007.

(2) As a part of the application for licensure as a hub, an applicant shall submit a detailed plan of operations in a format and containing any information as required by the *racing commission*[authority]. The application shall be accompanied by an application fee to cover incremental costs to the *racing commission*[authority], in an amount the *racing commission*[authority] determines to be appropriate. At a minimum, the operating plan shall address the following:

(a) The manner in which the proposed wagering system will operate, including its proposed operating schedule;

(b) The requirements for a qualified subscriber-based service set out in KRS 230.775; and

(c) The requirements for accounts established and operated for persons whose principal residence is outside of the Commonwealth of Kentucky.

(3) The *racing commission*[authority] may require changes in a proposed plan of operations as a condition of licensure. Subsequent material changes in the system's operation shall not occur unless approved by the *racing commission*[authority].

(4) The *racing commission*[authority] may conduct investigations or inspections or request additional information from any applicant as it deems appropriate in determining whether to approve the license application.

(5) An applicant licensed under this section may enter into any agreements that are necessary to promote, advertise, and further the sport of horse racing, or for the effective operation of hub operations, including, without limitation, interstate account wagering, television production, and telecommunications services.

(6) The *racing commission*[authority] shall promulgate administrative regulations to effectuate the provisions of KRS 230.775 to 230.785. The administrative regulations shall include but not be limited to criteria for licensing, the application

1 process, the format for the plan of operations, requisite fees, procedures for
 2 notifying the *racine commission*[authority] of substantive changes, contents of
 3 agreements entered into under subsection (5) of this section, procedures for
 4 accounting for wagers made, and other matters reasonably necessary to implement
 5 KRS 230.775 to 230.785.

6 (7) The *racine commission*[authority] may require the hub to make the following
 7 payments to the *racine commission*[authority]:

8 (a) A license fee not to exceed two hundred dollars (\$200) per operating day; and

9 (b) A fee of not more than one percent (1%) of the hub's total gross wagering
 10 receipts.

11 (8) A hub's records and financial information shall not be subject to the provisions of
 12 KRS 61.870 to 61.884.

13 (9) The Auditor of Public Accounts may review and audit all records and financial
 14 information of the hub, including all account information. The Auditor shall prepare
 15 a report of the review and audit which shall not contain any proprietary information
 16 regarding the hub. A copy of the report shall be sent to the Legislative Research
 17 Commission for referral to the appropriate committee.

18 ➔Section 490. KRS 230.785 is amended to read as follows:

19 The *racine commission*[authority] or its staff shall, upon request, be given access, for
 20 review and audit, to all records and financial information of the hub operator, including
 21 all account information. The *racine commission*[authority] may require that the hub
 22 operator annually submit to the *racine commission*[authority] audited financial
 23 statements.

24 ➔Section 491. KRS 230.800 is amended to read as follows:

25 (1) There is hereby created in the State Treasury a trust and revolving fund designated
 26 as the "Kentucky thoroughbred breeders incentive fund." The fund shall be
 27 administered by the Kentucky Horse Racing *Commission*[Authority]. For all tax

periods beginning on or after June 1, 2005, eighty percent (80%) of all receipts collected under KRS 139.531(1)(a) from the sales and use tax on the fees paid for breeding a stallion to a mare in Kentucky shall be deposited in the fund together with any other money contributed, appropriated, or allocated to the fund from all other sources. The money deposited in the fund is hereby appropriated for the uses set forth in this section. Any money remaining in the fund at the close of any calendar year shall not lapse but shall be carried forward to the next calendar year. The fund may also receive additional state appropriations, gifts, grants, and federal funds. All interest earned on money in the fund shall be credited to the fund.

- (2) (a) The Kentucky Horse Racing Commission~~[Authority]~~ shall use moneys deposited in the Kentucky thoroughbred breeders incentive fund to administer the fund and provide rewards for breeders of horses bred and foaled in Kentucky.
- (b) ~~[By January 1, 2006,]~~The Kentucky Horse Racing Commission~~[Authority]~~ shall promulgate administrative regulations establishing the conditions and criteria for the distribution of moneys from the fund.
- (c) The Department of Revenue may promulgate administrative regulations establishing the procedures necessary to determine the correct allocation of sales tax receipts described in subsection (1) of this section.
- (d) As soon as practicable after the close of each calendar year, ~~[beginning with the calendar year ending December 31, 2005,]~~the rac~~ing~~ commission~~[authority]~~ shall disburse to breeders of horses moneys in the Kentucky thoroughbred breeders incentive fund pursuant to the administrative regulations promulgated pursuant to paragraph (b) of this subsection.

➔Section 492. KRS 230.802 is amended to read as follows:

- (1) There is hereby created in the State Treasury a trust and revolving fund designated as the "Kentucky standardbred breeders incentive fund." The fund shall be

administered by the Kentucky Horse Racing Commission[Authority]. For tax periods beginning on or after June 1, 2005, thirteen percent (13%) of all receipts collected under KRS 139.531(1)(a) from the sales and use tax on the fees paid for breeding a stallion to a mare in Kentucky shall be deposited in the fund together with any other money contributed, appropriated, or allocated to the fund from all other sources. The money deposited in the fund is hereby appropriated for the uses set forth in this section. Any money remaining in the fund at the close of any calendar year shall not lapse but shall be carried forward to the next calendar year. The fund may also receive additional state appropriations, gifts, grants, and federal funds. All interest earned on money in the fund shall be credited to the fund.

(2) (a) The Kentucky Horse Racing Commission[Authority] shall use moneys deposited in the Kentucky standardbred breeders incentive fund to administer the fund and provide rewards for breeders or owners of Kentucky-bred standardbred horses.

(b) ~~[By January 1, 2006,]~~ The Kentucky Horse Racing Commission[Authority] shall promulgate administrative regulations establishing the conditions and criteria for the distribution of moneys from the fund.

(c) The Department of Revenue may promulgate administrative regulations establishing the procedures necessary to determine the correct allocation of sales tax receipts described in subsection (1) of this section.

(d) As soon as practicable after the close of each calendar year, ~~[beginning with the calendar year ending December 31, 2005,]~~ the rac
ing
commission[authority] shall disburse moneys in the Kentucky standardbred breeders incentive fund to be used to promote, enhance, improve, and encourage the further and continued development of the standardbred breeding industry in Kentucky, under the administrative regulations promulgated pursuant to paragraph (b) of this subsection.

➔Section 493. KRS 230.804 is amended to read as follows:

(1) There is hereby created in the State Treasury a trust and revolving fund designated as the "Kentucky horse breeders incentive fund." The fund shall be administered by the Kentucky Horse Racing Commission[Authority]. For tax periods beginning on or after June 1, 2005, seven percent (7%) of all receipts collected under KRS 139.531(1)(a) from the sales and use tax on the fees paid for breeding a stallion to a mare in Kentucky shall be deposited in the fund together with any other money contributed, appropriated or allocated to the fund from all other sources. The money deposited in the fund is hereby appropriated for the uses set forth in this section. Any money remaining in the fund at the close of any calendar year shall not lapse but shall be carried forward to the next calendar year. The fund may also receive additional state appropriations, gifts, grants, and federal funds. All interest earned on money in the fund shall be credited to the fund.

(2) (a) The Kentucky Horse Racing Commission[Authority] shall use moneys deposited in the Kentucky horse breeders incentive fund to administer the fund and provide rewards for breeders or owners of horses bred and foaled in Kentucky.

(b) ~~[By January 1, 2006,]~~The Kentucky Horse Racing Commission[Authority] shall promulgate administrative regulations establishing the conditions and criteria for the distribution of moneys from the fund.

(c) The Department of Revenue may promulgate administrative regulations establishing the procedures necessary to determine the correct allocation of sales tax receipts described in subsection (1) of this section.

(d) As soon as practicable after the close of each calendar year, ~~[beginning with the calendar year ending December 31, 2005,]~~the racing commission[authority] shall disburse to breeders of horses moneys in the Kentucky horse breeders incentive fund to be used to promote, enhance,

1 improve, and encourage the further and continued development of the horse
 2 industry in Kentucky, under the administrative regulations promulgated
 3 pursuant to paragraph (b) of this subsection.

4 ➔Section 494. KRS 230.990 is amended to read as follows:

5 (1) Any person who violates KRS 230.070 or KRS 230.080(3) shall be guilty of a Class
 6 D felony.

7 (2) Any person who violates KRS 230.090 shall be guilty of a Class A misdemeanor.

8 (3) Any person who violates KRS 230.680 shall be guilty of a Class A misdemeanor.

9 (4) Any person who refuses to make any report or to turn over sums as required by
 10 KRS 230.361 to 230.373 shall be guilty of a Class A misdemeanor.

11 (5) Any person failing to appear before the racing commission~~[authority]~~ at the time
 12 and place specified in the summons issued pursuant to KRS 230.260(12), or
 13 refusing to testify, shall be guilty of a Class B misdemeanor. False swearing on the
 14 part of any witness shall be deemed perjury and punished as such.

15 (6) (a) A person is guilty of tampering with or interfering with a horse race when,
 16 with the intent to influence the outcome of a horse race, he uses any device,
 17 material, or substance not approved by the Kentucky Horse Racing
 18 Commission~~[Authority]~~ on or in any participant involved in or eligible to
 19 compete in a horse race to be viewed by the public.

20 (b) Any person who, while outside the Commonwealth and with intent to
 21 influence the outcome of a horse race contested within the Commonwealth,
 22 tampers with or interferes with any equine participant involved in or eligible
 23 to compete in a horse race in the Commonwealth is guilty of tampering with
 24 or interfering with a horse race.

25 (c) Tampering with or interfering with a horse race is a Class C felony.

26 ➔Section 495. KRS 234.100 is amended to read as follows:

27 (1) As used in KRS 234.100 to 234.160 and 234.990 the term "liquefied petroleum gas"

means and includes any material which is composed predominantly of any of the following hydrocarbons, or mixtures of them, whether in the liquid or in the gaseous states: propane, propylene, butane (normal butane or isobutane), and butylene.

(2) "Commissioner~~[Executive director]~~" means commissioner~~[executive director]~~ of housing, buildings and construction.

➔Section 496. KRS 234.120 is amended to read as follows:

(1) Subject to the exceptions provided in subsection (2), no person shall engage in any of the businesses set out in this subsection without first having provided proof to the commissioner~~[executive director]~~ of ability to respond in damages for personal injury and property damages in the amount prescribed, and having obtained from the commissioner~~[executive director]~~ the required license or licenses and paid the prescribed fee therefor:

(a) Selling or delivering to the ultimate consumer or user of liquefied petroleum gas; selling liquefied petroleum gas regulating equipment; repairing, installing, or connecting of containers, liquefied petroleum gas appliances, or liquefied petroleum gas utilization equipment; or filling of D.O.T. liquefied petroleum gas containers for ultimate consumer or wholesale dealer. In-state liquefied petroleum gas dealers, except those holding a valid license on July 15, 1994, shall maintain a liquefied petroleum gas storage facility with an eighteen thousand (18,000) gallon minimum capacity within the boundaries of Kentucky. Out-of-state liquefied petroleum gas dealers, except those holding a valid license on July 15, 1994, shall maintain an eighteen thousand (18,000) gallon minimum capacity liquefied petroleum gas storage facility within fifty (50) miles of the Kentucky border. Until January 1, 2002, the fee for this license shall be one hundred dollars (\$100). Beginning on January 1, 2002, the fee for this license shall be two hundred dollars (\$200), and the license shall

1 be issued for a period of two (2) years. The minimum liability insurance for
2 this license shall be one million dollars (\$1,000,000).

3 (b) Selling or delivering liquefied petroleum gas in prefilled or filled-on-site
4 containers of one hundred (100) pound liquefied petroleum gas capacity or
5 less; selling of liquefied petroleum gas regulating equipment; assembly,
6 repairing, installing, or connecting of liquefied petroleum gas containers,
7 liquefied petroleum gas appliances, or any liquefied petroleum gas utilization
8 equipment. Until January 1, 2002, the fee for this license shall be fifty dollars
9 (\$50). Beginning on January 1, 2002, the fee for this license shall be one
10 hundred dollars (\$100), and the license shall be issued for a period of two (2)
11 years. The minimum liability insurance for this license shall be five hundred
12 thousand dollars (\$500,000).

13 (c) Selling or filling of D.O.T. liquefied petroleum gas containers of forty-five
14 (45) pounds or less capacity, or selling liquefied petroleum gas at a specific
15 site for use as a motor vehicle fuel. Until January 1, 2002, the fee for this
16 license shall be fifty dollars (\$50). Beginning on January 1, 2002, the fee for
17 this license shall be one hundred dollars (\$100), and the license shall be issued
18 for a period of two (2) years. The minimum liability insurance for this license
19 shall be five hundred thousand dollars (\$500,000).

20 (d) Storing, for resale, liquefied petroleum gas in D.O.T. containers of forty-five
21 (45) pounds or less capacity, or selling D.O.T. containers, storage cabinets,
22 racks, docks, for storage of forty-five (45) pound capacity or less. Until
23 January 1, 2001, the fee for this license shall be twenty-five dollars (\$25).
24 Beginning on January 1, 2001, the fee for this license shall be fifty dollars
25 (\$50), and the license shall be issued for a period of two (2) years. The
26 minimum liability insurance for this license shall be one hundred thousand
27 dollars (\$100,000).

(e) Assembling, repairing, installing, or connecting of liquefied petroleum gas containers, or regulating equipment, or liquefied petroleum gas appliances, or any liquefied petroleum gas utilization equipment. Until January 1, 2001, the fee for this license shall be twenty-five dollars (\$25). Beginning on January 1, 2001, the fee for this license shall be fifty dollars (\$50), and the license shall be issued for a period of two (2) years. The minimum liability insurance for this license shall be five hundred thousand dollars (\$500,000).

(2) Any person engaged in any business for which a license is required under the provisions of subsection (1) and who engages in the business at more than one (1) office or place of business in this state shall obtain a separate license for each such office or place of business and shall pay therefor the required license fee; except that for the purposes of issuance of licenses under subsection (1) all facilities for the storage only of liquefied petroleum gas for resale within a radius of twenty (20) miles of an office or place of business shall be considered a part of the office or place of business and shall not require separate licensure.

(3) The commissioner~~[executive-director]~~ shall further have the authority to promulgate and enforce reasonable administrative regulations requiring proof of ability to respond in damages for personal injury and property damages in the minimum amounts required under the provisions of subsection (1), prior to the issuance of a license. The commissioner~~[executive-director]~~ shall also have authority to suspend or revoke any license issued under this section for willful or gross negligence or for violation of any applicable administrative regulations promulgated under KRS 227.300, but any licensee whose license is suspended or revoked shall be afforded the opportunity for an administrative hearing conducted in accordance with KRS Chapter 13B.

➔ Section 497. KRS 234.130 is amended to read as follows:

The initial license required under KRS 234.120 shall be issued by the department~~[office]~~

1 and shall expire on the last day of the licensee's birth month in the next even-numbered
 2 year. The department~~[office]~~ may reduce the license fee on a pro rata basis for initial
 3 licenses issued for less than twenty-four (24) months. Renewed licenses shall expire on
 4 the last day of the licensee's birth month of each numbered year after the issuance of the
 5 renewed license. Renewal fees shall be the same as the initial license fee.

6 ➔Section 498. KRS 234.140 is amended to read as follows:

7 (1) The commissioner~~[executive director]~~, after a public hearing thereon, shall make,
 8 promulgate, and enforce regulations setting forth minimum general standards
 9 covering the design, construction, location, installation, and operation of equipment
 10 for storing, handling, transporting by tank truck, tank trailer, and utilizing liquefied
 11 petroleum gases, and specifying the odorization of said gases and the degree
 12 thereof. Said regulations shall be such as are reasonably necessary for the protection
 13 of the health, welfare and safety of the public and persons using such materials, and
 14 shall be in substantial conformity with the generally accepted standards of safety
 15 concerning the same subject matter. Regulations concerning the construction of
 16 buildings relating to liquefied petroleum gases shall conform to the uniform state
 17 building code after said code is promulgated.

18 (2) The commissioner~~[executive director]~~ shall promulgate any additional rules and
 19 regulations which he or she deems necessary to provide for the safe storage,
 20 handling, transportation and use of liquefied petroleum gas.

21 ➔Section 499. KRS 234.160 is amended to read as follows:

22 All moneys collected under the provisions of KRS 234.100 to 234.160 shall be paid into
 23 the State Treasury and credited to a trust and agency fund to be used by the
 24 Department~~[Office]~~ of Housing, Buildings and Construction solely for the administration
 25 and enforcement of KRS 234.100 to 234.160 and 234.990.

26 ➔Section 500. KRS 234.171 is amended to read as follows:

27 The commissioner~~[executive director]~~ of housing, buildings and construction may

1 appoint an advisory board composed of persons actively engaged in the liquefied
 2 petroleum gas industry in the State of Kentucky. The board shall give the
 3 commissioner~~[executive director]~~ the benefit of its technical knowledge to aid him or her
 4 in supervising and regulating the liquefied petroleum gas industry.

5 ➔Section 501. KRS 234.175 is amended to read as follows:

6 (1) Domestic and commercial gas-consuming equipment and appliances shall not be
 7 installed unless their correctness as to design, construction, and performance is
 8 certified by:

9 (a) A nationally recognized testing agency adequately equipped and competent to
 10 perform such services evidenced by the attachment of its seal or label to such
 11 gas appliances. This agency shall be one which maintains a program of
 12 national inspection of production models of gas appliances, at least once each
 13 year on the manufacturer's premises;

14 (b) By the American Gas Association Laboratories, as evidenced by the
 15 attachment of its listing symbol or approval seal to gas appliances and a
 16 certificate or letter certifying approval under the above-mentioned
 17 requirements, or listing by Underwriters' Laboratories, Inc., shall be
 18 considered as constituting compliance with the provisions of this section,
 19 providing, that the manufacturer has approval and certification of same from
 20 the Department~~[Office]~~ of Housing, Buildings and Construction.

21 (2) Equipment not subject to A.G.A. or laboratory inspection must have approval of the
 22 Department~~[Office]~~ of Housing, Buildings and Construction.

23 (3) A person shall not install gas-consuming appliances, equipment, or other
 24 components of a gas delivery system unless the installation is made in accordance
 25 with the instructions of the manufacturer of the appliance, equipment, or component
 26 and in compliance with the applicable administrative regulations promulgated by
 27 the Department~~[Office]~~ of Housing, Buildings and Construction.

1 (4) A person shall not alter, modify, maintain, or repair gas-consuming appliances,
 2 equipment, or other components of a gas delivery system unless the alteration,
 3 modification, maintenance, or repair is made in accordance with the instructions of
 4 the manufacturer of the appliance, equipment, or component and in compliance
 5 with the applicable administrative regulations promulgated by the
 6 Department~~Office~~ of Housing, Buildings and Construction.

7 (5) A person licensed under this chapter or an agent or employee of the person shall not
 8 be liable for civil damages for injury to persons or property that result from the
 9 installation, alteration, modification, maintenance, or repair of a gas-consuming
 10 appliance, equipment, or component by a person other than the licensee or the
 11 licensee's agent or employee.

12 (6) (a) Except as provided in paragraph (b) of this subsection, a person licensed
 13 under this chapter or the licensee's agent or employee who provides gas to an
 14 end user shall not be liable for civil damages for injury to persons or property
 15 that result from the installation, alteration, modification, maintenance, or
 16 repair of the gas-consuming appliance, equipment, or component if the
 17 installation, alteration, modification, maintenance, or repair is done without
 18 the actual knowledge and consent of the licensee or the licensee's agent or
 19 employee.

20 (b) A person licensed under this chapter or his or her agent or employee shall not
 21 be exempt from liability for civil damages under paragraph (a) of this
 22 subsection if the person or his or her agent or employee is negligent or acts
 23 intentionally, and the negligence or intentional act causes or partially causes
 24 injury or damage.

25 ➔Section 502. KRS 234.180 is amended to read as follows:

26 (1) For plants storing liquefied petroleum gases, and used for the dispensing of
 27 liquefied petroleum gases in liquid state into container or containers, for resale,

1 plans shall be submitted, in duplicate, to the Department~~{Office}~~ of Housing,
 2 Buildings and Construction, and shall be approved by the department~~{office}~~ before
 3 construction is started. Plans so submitted shall show the following information as a
 4 minimum:

- 5 (a) The name and address of the owner, and the name and purpose of the plant
 6 proposed;
- 7 (b) Location of the proposed plant in relation to the nearest city, highways,
 8 railroads, and built up areas;
- 9 (c) A plot plan showing dimensions of the area proposed to be used for the plant,
 10 distances to the nearest property lines and the location and construction of any
 11 buildings which might affect the distances required under regulations adopted
 12 by the commissioner~~{executive—director}~~ of housing, buildings, and
 13 construction;
- 14 (d) Construction drawings showing the arrangement and construction of all tanks,
 15 tank supports, piping, accessories, buildings, and appurtenant items of
 16 construction. These drawings shall be in sufficient detail to allow a contractor
 17 who is familiar with tank and pipe installation but not necessarily familiar
 18 with liquefied petroleum gas installations to use such drawings to
 19 satisfactorily complete the installation without further instructions;
- 20 (e) A copy of the original boiler inspector's report of inspection of the tank or
 21 tanks to be used or a reference to manufacturer's name and serial number of
 22 the tank so that the report may be obtained direct;
- 23 (f) The date of completion of the plans, the dates of any subsequent revisions and
 24 the signature of the person assuming responsibility for the correctness of the
 25 plans.

- 26 (2) For plants, installed for industrial or commercial usage, having a nominal water
 27 capacity of 150 gallons or over and serving an aggregate BTU usage of 150,000

1 BTUs or over and/or used for dispensing liquefied petroleum gas into other
 2 containers, not for resale, a report of installation, giving location and equipment
 3 installed, must be made to the Department~~[Office]~~ of Housing, Buildings and
 4 Construction, not later than ten (10) days after installation.

5 ➔ Section 503. KRS 234.272 is amended to read as follows:

6 As used in KRS 234.270 to 234.302, unless the context otherwise requires:

- 7 (1) "Commissioner~~[Executive Director]~~" means the commissioner~~[executive director]~~
 8 of the Department~~[Office]~~ of Housing, Buildings and Construction;
- 9 (2) "Council" means the Kentucky Propane Education and Research Council created in
 10 accordance with KRS 234.290;
- 11 (3) "Department~~[Office]~~" means the state Department~~["Office"]~~ of Housing, Buildings
 12 and Construction;
- 13 (4) "Education" means any action to provide information regarding propane, propane
 14 equipment, mechanical and technical practices relating to the use of propane, and
 15 propane uses to consumers and members of the propane industry;
- 16 (5) "Industry" means those persons involved in the production, transportation, and sale
 17 of propane and in the manufacture and distribution of propane utilization
 18 equipment;
- 19 (6) "Industry trade association" means an organization representing the propane
 20 industry which is exempt from tax, under Section 501(c)(3) or (c)(6) of the Internal
 21 Revenue Code;
- 22 (7) "Odorized propane" means propane to which an odorant has been added;
- 23 (8) "Person" means any individual, corporation, partnership, association, cooperative,
 24 or other business entity;
- 25 (9) "Producer" means the owner of propane at the time it is recovered at a gas
 26 processing plant or refinery, without regard to the state in which actual production
 27 occurs;

- 1 (10) "Propane" means a hydrocarbon whose chemical composition is predominately
 2 C₃H₈, whether recovered from natural gas or crude oil, and includes liquefied
 3 petroleum gases and mixtures thereof;
- 4 (11) "Public member" means a member of the council representing significant users of
 5 propane, public safety officials, state regulatory officials, or other groups
 6 knowledgeable about propane;
- 7 (12) "Research" means any type of study, investigation, or other activity designed to
 8 advance the image, desirability, usage, marketability, efficiency, or safety of
 9 propane and to further the development of this information;
- 10 (13) "Retail marketer" means a person engaged primarily in the sale of odorized propane
 11 to the final user of the product or to retail propane dispensers;
- 12 (14) "Retail propane dispenser" means a person who sells odorized propane to the final
 13 user of the product but is not engaged primarily in the business of these sales; and
- 14 (15) "Supplier" means a person, other than a producer, who is the owner of propane in
 15 the Commonwealth at the time of odorization or who is the owner of odorized
 16 propane at the time it is imported into the Commonwealth.

17 ➔Section 504. KRS 234.274 is amended to read as follows:

18 The commissioner~~executive-director~~ may promulgate administrative regulations in
 19 accordance with KRS Chapter 13A to implement the provisions of KRS 234.270 to
 20 234.302.

21 ➔Section 505. KRS 234.280 is amended to read as follows:

- 22 (1) Any existing industry trade organization which is fairly representative of the
 23 propane industry in Kentucky, such as the Kentucky Propane Gas Association, may
 24 at any time after July 15, 1998, make application to the commissioner~~executive~~
 25 ~~director~~ on forms prescribed by the department~~office~~ for certification and
 26 approval for the purpose of conducting a referendum among producers, suppliers,
 27 and retail marketers upon the question of levying an assessment under the

provisions of KRS 234.270 to 234.302 and collecting and utilizing the assessment for the purpose stated in the referendum. The application forms shall include, but not be limited to, the following:

- (a) Applicant's name;
- (b) Applicant's address;
- (c) Date;
- (d) Program to be undertaken;
- (e) Brief statement of how the program is to be implemented;
- (f) Referendum to be conducted on a statewide basis;
- (g) Proposed effective date of the program; and
- (h) Signature of the applicant.

- (2) Upon receipt of the application, the commissioner~~[executive director]~~ shall publish the application through the medium of the public press in the state within ten (10) days of receipt.

→ Section 506. KRS 234.282 is amended to read as follows:

Upon being certified by the commissioner~~[executive director]~~, the association in KRS 234.280(1) shall be fully authorized and empowered to hold a referendum among producers, suppliers, and retail marketers on the question of whether the industry shall levy upon itself an assessment for the purpose stated in KRS 234.270 to 234.302.

→ Section 507. KRS 234.286 is amended to read as follows:

- (1) The manner, conduct, and management of any referendum held under the provisions of KRS 234.270 to 234.302 shall be under the supervision and direction of the commissioner~~[executive director]~~. Any and all expenses in connection with the initial referendum shall be borne by the association conducting the referendum. Any and all expenses in connection with subsequent referenda shall be borne by the council.

- (2) With respect to any referendum conducted under the provisions of KRS 234.270 to

234.302, the association or council responsible for the referendum shall select an independent auditing firm, subject to the approval of the commissioner~~executive director~~, to conduct the referendum.

(3) All persons voting in the referendum shall certify to the independent auditing firm the volume of propane represented by their vote. The information provided under this subsection shall be considered proprietary and shall remain confidential.

(4) The association or council responsible for the referendum shall develop a mechanism for notifying those persons eligible to vote in the referendum. Notice of the referendum, at a minimum, shall be given to all retail marketers in Kentucky holding a "Class A" license from the department~~office~~ and notice shall be published in existing industry publications with significant circulation within the Commonwealth.

➔Section 508. KRS 234.288 is amended to read as follows:

(1) The results of the referendum, as certified by the independent auditing firm, shall be submitted to the commissioner~~executive director~~ within thirty (30) days of certification.

(2) For the purpose of the referendum, producers and suppliers shall be considered a single class. Upon approval of those persons representing two-thirds (2/3) of the total volume of odorized propane voted in the retail marketer class and approval of those persons representing two-thirds (2/3) of the total volume of propane voted in the producer and supplier class, the commissioner~~executive director~~ shall issue an order authorizing the assessment.

(3) The initial assessment proposed shall be no greater than one-tenth of one cent (\$0.001) per gallon of odorized propane. Thereafter, the annual assessment shall be set by the council in an amount adequate to cover the cost of plans and programs developed by the council. In no event shall the annual assessment levied under the provisions of the referendum exceed one-half of one cent (\$0.005) per gallon of

odorized propane unless approved by the majority of those voting in both the retail marketer class and the producer and supplier class in a separate referendum. The increase in the annual assessment as provided for in this subsection is limited to one-tenth of one cent (\$0.001) per year.

➔Section 509. KRS 234.290 is amended to read as follows:

- (1) There is hereby established the Kentucky Propane Education and Research Council composed of eleven (11) members appointed by the commissioner~~executive director~~. Five (5) members shall represent retail marketers, five (5) members shall represent producers and suppliers, and one (1) member shall be the public member as defined in KRS 234.272.
- (2) Council members representing retail marketers, producers, and suppliers shall be appointed based on the nomination of an industry trade association certified according to KRS 234.280. No member representing these categories may be appointed unless recommended by a certified industry trade association. Members in these categories shall be full-time employees or owners of businesses in the industry.
- (3) No employee of a certified industry trade association shall serve as a member of the council and no member of the council may serve concurrently as an officer or member of the board of directors of a certified industry trade association. A director of a certified association may serve as an ex officio nonvoting member of the council.
- (4) No more than one (1) representative from any company or its affiliate may serve on the council at any time.
- (5) In nominating members to the council, a certified association shall consider broad-based representation including:
 - (a) Gas processors and oil refiners among producers;
 - (b) Interstate and intrastate operators among retail marketers;

1 (c) Large and small companies among producers, suppliers, and retail marketers;
2 and

3 (d) Diverse geographic regions of the state.

4 (6) Council members shall serve three (3) year terms except that for initial
5 appointments, four (4) members shall be appointed to one (1) year terms, four (4)
6 members to two (2) year terms, and three (3) members to three (3) year terms.
7 Within ninety (90) days after July 15, 1998, certified industry trade organizations
8 shall submit nominations to the commissioner~~[executive director]~~. No member
9 shall serve more than two (2) consecutive terms.

10 (7) Council members shall receive no compensation for their services. Only the public
11 member may be reimbursed for reasonable and necessary expenses directly related
12 to attendance at council meetings.

13 ➔Section 510. KRS 234.292 is amended to read as follows:

14 (1) The council shall establish the annual assessment subject to the limitations of KRS
15 234.288(3) to be paid by the owner of odorized propane at the time of odorization
16 or at the time of import of odorized propane into the state. The assessment shall be
17 made based on the volume of odorized propane sold for final use within the
18 Commonwealth.

19 (2) The assessment shall be listed as a separate line item on the bill and labeled
20 "Kentucky Propane Education and Research Assessment." Assessments collected
21 from purchasers of propane are payable to the council on a monthly basis and are
22 due by the twenty-fifth day of the month following the month of collection.

23 (3) The council may establish an alternative means of collecting the assessment if
24 another method is found to be more efficient or effective. The council may establish
25 a late payment charge and rate of interest to be imposed on any person who fails to
26 remit to the council any amount due by the date listed in subsection (2) of this
27 section.

1 (4) The council shall elect its own chair and may elect other officers as necessary. The
 2 council shall determine its business structure and adopt rules and bylaws for the
 3 conduct of its business. The council shall establish procedures for the solicitation of
 4 industry comments and recommendations on plans and programs financed by the
 5 assessments.

6 (5) The council shall keep minutes, books, and records that clearly reflect all of the acts
 7 and transactions of the council. The minutes, books, and records shall be made
 8 available to the members of the council, the commissioner~~[executive director]~~, and
 9 persons paying the assessment.

10 (6) The council shall, at the beginning of each fiscal year, prepare and submit to the
 11 commissioner~~[executive director]~~ a budget. The commissioner~~[executive director]~~
 12 shall review and comment on the proposed budget.

13 (7) The books of the council shall be audited by a certified public accountant at least
 14 once each fiscal year. Copies of the audit shall be provided to the members of the
 15 council and the commissioner~~[executive director]~~.

16 (8) The council may contract with an industry association certified under KRS 234.280
 17 for administrative and other services subject to the limitation in KRS 234.294(2).

18 ➔Section 511. KRS 234.298 is amended to read as follows:

19 (1) Upon petition to the commissioner~~[executive director]~~ by producers, suppliers, and
 20 retail marketers representing thirty-five percent (35%) of the volume of propane in
 21 each class, the council shall conduct a referendum to determine if the industry
 22 favors termination of the council and the assessment. Termination shall not take
 23 effect unless it is approved by persons representing a majority of the total volume of
 24 odorized propane voted in the retail marketer class and by persons representing a
 25 majority of the total volume of propane voted in the producer and supplier class.

26 (2) The council shall conduct a referendum five (5) years after the date of the first
 27 referendum and each subsequent five (5) year period to determine if the assessment

1 should be continued or terminated.

- 2 (3) If the council expresses in writing its desire to the commissioner~~executive~~
3 ~~director~~ to discontinue the assessment program and terminate the program, the
4 commissioner~~executive director~~, after reviewing the request and conducting
5 whatever proceedings are deemed appropriate and necessary in connection with the
6 request, may terminate the program effective at the end of the calendar year in
7 which the action is taken.

8 ➔Section 512. KRS 234.321 is amended to read as follows:

- 9 (1) The tax imposed by KRS 234.320 shall not be collected when the liquefied
10 petroleum gas sold by the dealer is used to propel motor vehicles on the public
11 highways, either within or without this state, when the motor vehicles using the
12 liquefied petroleum gas are equipped with carburetion systems approved by the
13 Energy and Environment~~Environmental and Public Protection~~ Cabinet.

- 14 (2) The Energy and Environment~~Environmental and Public Protection~~ Cabinet shall
15 establish emission standards for carburetion systems.

16 ➔Section 513. KRS 235.010 is amended to read as follows:

17 As used in this chapter, unless the context clearly requires a different meaning:

- 18 (1) "Vessel" means every description of watercraft, other than a seaplane on the water;
19 (2) "Motorboat" means any vessel propelled by machinery, whether or not such
20 machinery is the principal source of propulsion, except for the following:
21 (a) Boats or vessels propelled totally by a direct current battery-powered motor
22 when used on private waters;
23 (b) Boats propelled by human power employing the use of hand or foot operation;
24 and
25 (c) Federally regulated commercial vessels;
26 (3) "Owner" means a person, other than a lienholder, having the property in or title to a
27 motorboat. The term includes a person entitled to the use or possession of a

- 1 motorboat subject to an interest in another person, reserved or created by agreement
 2 and securing payment or performance of an obligation, but the term excludes a
 3 lessee under a lease not intended as security;
- 4 (4) "Personal watercraft" means a vessel which uses an internal combustion engine to
 5 power a jet pump for its primary source of propulsion and is designed to be operated
 6 by a person sitting, standing, or kneeling on the vessel rather than to be operated by
 7 a person sitting or standing inside the vessel;
- 8 (5) "Safe boating certificate" means a document attesting the successful completion of
 9 instruction, approved by the department or given by the United States Coast Guard
 10 or Coast Guard Auxiliary or the United States Power Squadron, to prepare an
 11 individual to safely operate a motorboat or personal watercraft on the waters of the
 12 Commonwealth;
- 13 (6) "Waters of this state" means any waters within the territorial limits of this state;
- 14 (7) "Person" means an individual, partnership, firm, corporation, association, or other
 15 entity;
- 16 (8) "Operate" means to navigate or otherwise use a motorboat or a vessel;
- 17 (9) "Cabinet" means the Tourism, Arts and Heritage Cabinet;
- 18 (10) "Department" means the Department of Fish and Wildlife Resources;
- 19 (11) "License" and "certificate of number" as used herein are synonymous;
- 20 (12) "Clerk" means county clerk;
- 21 (13) "Division of Law Enforcement" means the Division of Law Enforcement,
 22 Department of Fish and Wildlife Resources within the Tourism, Arts and Heritage
 23 Cabinet;
- 24 (14) "Title" means the certificate of title;
- 25 (15) "Commissioner" means the commissioner of the Department of Fish and Wildlife
 26 Resources;
- 27 (16) "Federally regulated commercial vessel" means any vessel holding a United States

1 certificate of documentation with a coastwise trade endorsement;

2 (17) "Marina" means a dock or basin providing moorings for motorboats and offering
3 supply, repair, or other services for remuneration; and

4 (18) "Marine sanitation device" means equipment that is identified by the United States
5 Coast Guard as meeting the standards of the United States Environmental
6 Protection Agency or that is approved by the Energy and
7 Environment~~[Environmental and Public Protection]~~ Cabinet, to eliminate the
8 discharge of untreated sewage from vessels into the waters of the Commonwealth
9 and is a device that receives, treats, retains, or discharges sewage.

10 ➔Section 514. KRS 236.010 is amended to read as follows:

11 As used in this chapter:

12 (1) "Boiler" or "boilers" means and includes a closed vessel in which water or other
13 liquid is heated, steam or vapor is generated, steam is superheated, or in which any
14 combination of these functions is accomplished, under pressure or vacuum, for use
15 externally to itself, by the direct application of energy from the combustion of fuels,
16 or from electricity, solar or nuclear energy. The term "boiler" shall include fired
17 units for heating or vaporizing liquids other than water where these units are
18 separate from processing systems and are complete within themselves:

19 (a) "Power boiler" means a boiler in which steam or other vapor is generated at a
20 pressure of more than fifteen (15) pounds per square inch gauge;

21 (b) "High pressure, high temperature water boiler" means a water boiler operating
22 at pressures exceeding one hundred sixty (160) pounds per square inch gauge
23 or temperatures exceeding two hundred fifty (250) degrees Fahrenheit; and

24 (c) "Heating boiler" means a steam or vapor boiler operating at pressures not
25 exceeding fifteen (15) pounds per square inch gauge or a hot water boiler
26 operating at pressures not exceeding one hundred sixty (160) pounds per
27 square inch gauge or temperatures not exceeding two hundred fifty (250)

1 degrees Fahrenheit.

2 (2) "Pressure vessel" means a vessel in which the pressure is obtained from an external
3 source or by the application of heat other than those vessels defined in subsection
4 (1) of this section.

5 (3) "~~Commissioner~~~~[Executive director]~~" means the commissioner~~[executive director]~~
6 of housing, buildings and construction.

7 (4) "~~Department~~~~[Office]~~" means the Department~~[Office]~~ of Housing, Buildings and
8 Construction.

9 (5) "ASME" means American Society of Mechanical Engineers.

10 (6) "Board" means Board of Boiler and Pressure Vessel Rules.

11 (7) "Certificate inspection" means an inspection, the report of which is used by the
12 chief boiler inspector to determine whether or not a certificate, as provided by
13 subsection (1) of KRS 236.120, may be issued.

14 (8) "Rule" or "regulation" means a general regulation adopted by the
15 commissioner~~[executive director]~~ upon advisement of the board and filed and
16 approved in accordance with KRS Chapter 13A designed to insure the safety of
17 boilers and pressure vessels that affects or may affect property rights of a designated
18 class of owners, or designed for the prevention of loss or damage to property, loss
19 of life, or personal injury from boiler or pressure vessel explosion or from certain
20 indicated hazards related thereto.

21 (9) "Order" or "summary order" means an order of the state fire marshal, the chief
22 boiler inspector, or a boiler inspector, made in accordance with this chapter or KRS
23 Chapter 227 and designed for the prevention of loss or damage to property, loss of
24 life, or personal injury from boiler or pressure vessel malfunction or explosion, that
25 affects or may affect the property rights of a particular owner of designated
26 property.

27 (10) "Division" means the Division of Plumbing~~[Fire Prevention]~~ in the

1 ~~department~~[office, headed by the state fire marshal].

2 (11) "Qualified welder" means a welder or welding machine operator who has passed the
3 tests required by Section IX of the ASME code.

4 (12) "Person" or "firm" means any individual, firm, partnership, or corporation.

5 ➔Section 515. KRS 236.020 is amended to read as follows:

6 (1) In the ~~Department~~[Office] of Housing, Buildings and Construction, Division of
7 ~~Plumbing~~[Fire Prevention], there shall be a Board of Boiler and Pressure Vessel
8 Rules, which shall hereafter be referred to as the board, consisting of seven (7)
9 members including the chief boiler inspector who shall serve as chairman. The
10 other members shall be appointed to the board by the Governor; one (1) for a term
11 of one (1) year, one (1) for a term of two (2) years, two (2) for a term of three (3)
12 years, and two (2) for a term of four (4) years, or until their successors are appointed
13 and qualified. At the expiration of their respective terms of office they, or their
14 successors identifiable with the same interest respectively as provided in this
15 section, shall be appointed for terms of four (4) years each. The Governor may at
16 any time remove any member of the board. Upon the death or incapacity of any
17 member the Governor shall fill the vacancy for the remainder of the vacated term
18 with a representative of the same interests with which his or her predecessor was
19 identified. Of these six (6) appointed members, one (1) shall be a practical steam
20 operating engineer of high pressure boilers, or any other representative of owners
21 and users of high pressure boilers or pressure vessels within the state; one (1) shall
22 be a representative of the boiler manufacturers or pressure vessel manufacturers
23 within the state; one (1) shall be a representative of a boiler insurance company
24 licensed to do business within the state; one (1) shall be a representative of the
25 boilermakers within the state selected from a list of five (5) names submitted by the
26 Kentucky State Building and Construction Trades Council; one (1) shall be a
27 representative of pipe erecting concerns doing business within the state; and one (1)

1 shall be a metallurgist, welder, or a person representing the welding industry. The
 2 board shall meet at least four (4) times each year at the Capitol or other place
 3 designated by the board. No approval, decision, or ruling of the board shall be
 4 effective unless supported by the vote of at least five (5) members thereof.

5 (2) The members of the board shall serve without salary and shall receive their actual
 6 necessary expenses, incurred while in the performance of their duties as members of
 7 the board, to be paid in the same manner as in the case of other state officers.

8 (3) The division shall provide such administrative support and assistance as may be
 9 necessary for the board to carry out its duties and responsibilities under this chapter.

10 ➔Section 516. KRS 236.030 is amended to read as follows:

11 After reasonable notice and opportunity to be heard in accordance with KRS Chapter
 12 13A, the commissioner~~executive director~~ of housing, buildings and construction, upon
 13 advisement and subject to comment by the board under the requirements of KRS
 14 198B.030(9) and (10) and 198B.040(11), shall, by administrative regulation, fix
 15 reasonable standards for the safe construction, installation, inspection, and repair of
 16 boilers, pressure vessels, and associated pressure piping in this state. Such administrative
 17 regulations shall be enforced by the Department~~Office~~ of Housing, Buildings and
 18 Construction, Division of Plumbing~~Fire Prevention~~.

19 ➔Section 517. KRS 236.040 is amended to read as follows:

20 (1) No boiler or pressure vessel which does not conform to the rules and regulations
 21 formulated by the commissioner~~executive director~~ governing new construction
 22 and installation shall be installed and operated in this state from the date upon
 23 which the first rules and regulations under this chapter pertaining to new
 24 construction and installation shall have become effective.

25 (2) All new connecting piping subjected to pressure emanating from a power boiler or
 26 pressure vessel shall be considered part of the boiler or pressure vessel installation,
 27 subject to the same boiler or pressure vessel code requirements, and shall be

designed in accordance with the rules of ASME power piping code ANSI 31.1 or its subsequent revisions and ASME boiler and pressure vessel code Sections I, and VIII (division 1) and their subsequent revisions. Inspection of such piping shall be performed by an inspector qualified under KRS 236.070 or KRS 236.080.

- (3) All new connecting piping subjected to pressure emanating from a heating boiler shall be considered part of the heating boiler installation, subject to the same boiler code requirements and shall be designed in accordance with the rules of the ASME heating boiler code, Section 4 and its subsequent revisions and this chapter. Inspection of such piping shall be performed by a boiler and pressure vessel inspector.

→Section 518. KRS 236.050 is amended to read as follows:

- (1) The maximum allowable working pressure of a boiler or pressure vessel carrying the ASME code symbol shall be determined by the applicable sections of the code under which it was constructed and stamped.
- (2) The maximum allowable working pressure of a boiler or pressure vessel which does not carry the ASME code symbol shall be computed in accordance with the ASME "Suggested Rules Governing Existing Installations", Section I appendix, Section IV appendix, and Section VIII appendix and the regulations adopted in accordance with KRS 236.030.
- (3) This chapter shall not be construed as in any way preventing the use or sale of a boiler referred to in this section, provided it has been made to conform to the rules and regulations of the commissioner~~executive director~~ governing existing installations; and provided, further, it has not been found upon inspection to be in an unsafe condition.

→Section 519. KRS 236.060 is amended to read as follows:

- (1) KRS 236.005 to 236.150 shall not apply to boilers or pressure vessels or related piping under federal control.

- 1 (2) KRS 236.005 to 236.150 shall not apply to the following boilers or related piping:
- 2 (a) Boilers or pressure vessels located on farms and used solely for agricultural
- 3 purposes;
- 4 (b) Boilers or pressure vessels located at any oil refineries;
- 5 (c) Boilers or pressure vessels located at any utility operating under a certificate
- 6 issued pursuant to KRS 278.020, if the boilers or pressure vessels are
- 7 inspected by a special boiler inspector under the provisions of KRS 236.110,
- 8 except that the inspection interval provided for in KRS 236.110 shall be
- 9 extended to eighteen (18) months;
- 10 (d) Steam or vapor boilers used for heating purposes carrying a pressure of not
- 11 more than fifteen (15) pounds per square inch gauge, and which are located in
- 12 private residences;
- 13 (e) Hot water heating boilers carrying a pressure of not more than thirty (30)
- 14 pounds per square inch gauge which are located in private residences or hot
- 15 water supply boilers which are located in private residences;
- 16 (f) Any unfired pressure vessels used as containers for liquefied petroleum gases
- 17 and subject to the jurisdiction of the Department~~{Office}~~ of Housing,
- 18 Buildings and Construction under KRS Chapter 234;
- 19 (g) Pressure vessels used for transportation of compressed gases if constructed
- 20 and operated in compliance with specifications and regulations of another
- 21 state or federal authority;
- 22 (h) Pressure vessels containing air located on vehicles operating under the
- 23 regulations of another state or federal authority;
- 24 (i) Pressure vessels operating at a maximum pressure of fifteen (15) PSI or less;
- 25 (j) Single wall pressure vessels having an inside diameter of six (6) inches;
- 26 (k) Pressure vessels with a nominal water containing capacity of one hundred
- 27 twenty (120) gallons or less, to be used for domestic supply purposes, for

1 containing water under pressure, including those containing air, the
2 compression of which serves only as a cushion;

3 (l) Pressure vessels containing water heated by steam or other indirect means
4 when none of the following are exceeded:

- 5 1. Heat input of two hundred thousand (200,000) BTU/Hr.;
- 6 2. Water temperature of two hundred ten (210) degrees Fahrenheit;
- 7 3. Water storage capacity of one hundred twenty (120) gallons;

8 (m) Coil type hot water boilers without a steam space and where no steam is
9 generated within the confines of the unit but where water flashes into steam
10 when released to atmospheric pressure by the operation of a manually
11 operated nozzle, unless one (1) of the following is exceeded:

- 12 1. Three quarter (3/4) inch inside diameter tubing or pipe size with no
13 drum or header attached;
- 14 2. Six (6) gallon water containing capacity;
- 15 3. Three hundred fifty (350) degrees Fahrenheit water temperature;

16 (n) Water heaters which are directly fired with oil, gas, or electricity, when none
17 of the following limitations are exceeded:

- 18 1. Heat input of two hundred thousand (200,000) BTU/Hr.;
- 19 2. A water temperature of two hundred ten (210) degrees Fahrenheit;
- 20 3. A water containing capacity of one hundred twenty (120) gallons;

21 (o) Pressure vessels which may be classified as:

- 22 1. Pressure containers which are integral parts of components of rotating or
23 reciprocating mechanical devices such as pumps, compressors, turbines,
24 generators, engines, and hydraulic or pneumatic cylinders where the
25 primary design considerations or stresses are derived from the functional
26 requirements of the device; or
- 27 2. Structures whose primary function is the transport of fluids from one

1 location to another within a system of which it is an integral part, that is,
 2 piping system.

- 3 (3) The fees required by KRS 236.120(1) and 236.130 shall not apply to standard and
 4 miniature antique and hobby boiler-operated tractors and equipment used solely for
 5 exhibition, if the boiler uses a fifty (50) pounds per square inch or less gauge.

6 →Section 520. KRS 236.070 is amended to read as follows:

7 The ~~department~~~~office~~ shall employ boiler and pressure vessel inspectors who shall have
 8 had at the time of appointment not less than five (5) years practical experience in the
 9 construction, maintenance, repair, or operation of high pressure boilers and pressure
 10 vessels as a mechanical engineer, practical steam operating engineer, boilermaker,
 11 pressure vessel inspector or boiler inspector, and who shall have passed the examination
 12 provided for in KRS 236.090.

13 →Section 521. KRS 236.080 is amended to read as follows:

- 14 (1) In addition to the boiler inspectors authorized by KRS 236.070, the
 15 ~~department~~~~office~~ shall, upon the request of any company authorized to insure
 16 against loss from explosion of boilers and pressure vessels in this state, issue to any
 17 boiler inspectors of said company commissions as special boiler inspectors,
 18 provided that each such special boiler inspector before receiving such commission,
 19 shall satisfactorily pass the examination provided for in KRS 236.090, or, in lieu of
 20 such examination, shall hold a commission or certificate of competency as an
 21 inspector of boilers and pressure vessels for a state that has a standard of
 22 examination substantially equal to that of this Commonwealth or a commission as
 23 an inspector of boilers and pressure vessels issued by the National Board of Boiler
 24 and Pressure Vessel Inspectors.

- 25 (2) Such special boiler inspectors shall receive no salary from, nor shall any of their
 26 expenses be paid by, the state and the continuance of a special inspector's
 27 commission shall be conditioned upon his or her continuing in the employ of an

1 insurance company duly authorized as aforesaid and upon his or her maintenance of
2 the standards imposed by this chapter.

3 (3) Such special inspectors shall inspect all boilers and pressure vessels insured by their
4 respective companies, and, when so inspected and reported as required, the owners
5 and users of such insured boilers and pressure vessels shall be exempt from the
6 payment to the state of the inspection fees as provided for in KRS 236.120 and
7 236.130.

8 (4) Each company employing such special boiler inspectors shall within thirty (30) days
9 following each certificate inspection made by such inspectors, file a report of such
10 inspection with the division upon appropriate forms prescribed by the division.
11 Other than the certificate inspection report, no reporting of other inspections shall
12 be required except when such inspections disclose that the boiler is in a dangerous
13 condition.

14 (5) Boiler and pressure vessel inspectors, whether employees of the department~~office~~
15 or special inspectors, shall have free access, during reasonable hours, to any
16 premises in the state where a boiler or pressure vessel is being constructed or is
17 being installed, for the purpose of ascertaining whether such boiler or pressure
18 vessel is constructed and installed or is being installed in accordance with the law,
19 and any orders, rules, or regulations in existence at that time.

20 ➔Section 522. KRS 236.090 is amended to read as follows:

21 Examination for a certificate of competency or a national board commission for boiler
22 inspectors or special boiler inspectors shall be in writing and shall be given and
23 monitored by the boiler inspection section of the division. Examinations are given on the
24 first Wednesday and Thursday of the months of March, June, September and December
25 of each year. The record of an applicant's examination shall be accessible to said
26 applicant and his employer.

27 ➔Section 523. KRS 236.100 is amended to read as follows:

1 (1) Any boiler inspector's or special inspector's appointment or commission may be
 2 suspended or revoked by the department~~[office]~~, after due investigation and hearing
 3 thereon, for the incompetence or untrustworthiness of the holder thereof, or for
 4 willful falsification of any matter or statement contained in his or her application or
 5 in a report of any inspection made by him or her. Written notice of and an
 6 opportunity for a hearing on any suspension or revocation under this subsection
 7 shall be given by the department~~[office]~~ to the inspector, and in the case of a
 8 special boiler inspector, also to his or her employer in accordance with the
 9 provisions of KRS Chapter 13B.

10 (2) A person whose appointment or commission has been suspended shall be entitled to
 11 apply to the commissioner~~[executive director]~~, after ninety (90) days from the date
 12 of the suspension, for reinstatement of the appointment or commission.

13 (3) Any willful falsification of an application or inspection report shall constitute a
 14 misdemeanor and shall subject the inspector or special inspector to the penalties
 15 provided in KRS 236.990.

16 ➔Section 524. KRS 236.110 is amended to read as follows:

17 (1) Each boiler or pressure vessel used or proposed to be used within this state, except
 18 boilers or pressure vessels exempt under KRS 236.060, shall be thoroughly
 19 inspected as to their construction, installation, and condition as follows:

20 (a) Power boilers shall receive a certificate inspection annually which shall be an
 21 internal inspection where construction permits; otherwise it shall be as
 22 complete an inspection as possible. Such boilers shall also be externally
 23 inspected while under pressure if possible.

24 (b) Low pressure steam or vapor heating boilers, hot water heating boilers, and
 25 hot water supply boilers shall receive a certificate inspection biennially; said
 26 inspection shall include internal inspection where construction permits.
 27 External inspections are required where construction does not permit internal

1 inspection.

2 (c) Pressure vessels shall be inspected at time of installation to ascertain that they
3 are in conformance with KRS 236.040. Subsequent reinspections, if any, shall
4 be set by regulation of the department~~[office]~~.

5 (d) A grace period of two (2) months beyond the periods specified in paragraphs
6 (a), (b), and (c) of this subsection may elapse between inspections.

7 (e) The department~~[office]~~ may at its discretion permit longer periods between
8 inspections.

9 (f) All new boiler or pressure vessel installations to be used within this state,
10 excepting boilers or pressure vessels exempted under KRS 236.060, shall be
11 inspected during the installation period to ascertain that all pressure piping
12 conforms to the requirements of KRS 236.040. An inspection certificate may
13 not be issued on any new installation until these requirements are fulfilled.

14 (g) It shall be the responsibility of the installing contractor to request the above
15 inspection by notifying the boiler inspection section of the division~~[state fire~~
16 ~~marshal's office]~~ that the installation is ready for such inspection. This must be
17 accomplished prior to covering of any welded or mechanical joints on
18 pressure piping or valves by insulation, paint, or structural materials. The
19 contractor shall provide ready access for the inspector to all parts of the piping
20 system.

21 (h) Inspection of pressure piping applies only to new boiler or pressure vessel
22 installations, or reinstallations, or installation of secondhand boilers (as
23 defined under "Boiler Rules and Regulations"). No annual or biennial
24 reinspection is required once the system has been approved.

25 (i) "Existing installations," as applied to inspection of piping systems is defined
26 as any boiler and piping system completed and approved for operation prior to
27 July 1, 1970. Such existing installations will not be subject to the foregoing

1 piping inspection unless adjudged patently unsafe for operation by a boiler
 2 inspector holding a commission issued by the National Board of Boiler and
 3 Pressure Vessel Inspectors. If an existing installation is so adjudged the owner
 4 will be granted full rights of appeal as set forth under KRS 236.150.

5 (j) At such time as an existing installation undergoes extensive overhaul or more
 6 than fifty (50) linear feet of pressure piping requires renewal or is added to the
 7 existing system, the entire system of piping carrying pressure emanating from
 8 the boilers shall be subject to inspection and will be brought up to standards
 9 required by KRS 236.040.

10 (k) The installing contractor of a piping system carrying pressure emanating from
 11 a boiler or pressure vessel subject to inspection under provisions of KRS
 12 236.050 to 236.150, shall pay to the department~~{office}~~, upon completion of
 13 inspection, fees in accordance with a schedule set up by the board and
 14 approved by the commissioner~~{executive director}~~.

15 (l) Operation of a pressure piping system in conjunction with a boiler or pressure
 16 vessel, either of which has not been inspected and approved as set forth above,
 17 shall be subject to fines and penalties as set forth in KRS 236.990.

18 (2) The inspections required in this section shall be made by a boiler and pressure
 19 vessel inspector or by a special boiler inspector except that all new installations
 20 shall be inspected by a boiler inspector employed by the department~~{office}~~.

21 (3) If at any time a hydrostatic, pneumatic, or any other nondestructive test shall be
 22 deemed necessary for ascertaining acceptability, the same shall be made by the
 23 contractor or owner-user, whoever is responsible for the condition, and be
 24 witnessed by a boiler inspector or special boiler inspector.

25 (4) All boilers to be installed in this state after July 1, 1970, and all pressure vessels
 26 installed in this state after July 15, 1980, shall be inspected during construction as
 27 required by the applicable rules and regulations of the department~~{office}~~ by a

boiler and pressure vessel inspector authorized to inspect boilers and pressure vessels in this state, or, if constructed outside of the state, by an inspector holding a commission from the national board as an inspector of boilers and pressure vessels.

- (5) No person shall willfully falsify any statement designed to secure the issuance, renewal or reinstatement of a certificate of inspection. Violation of this subsection shall subject such a person to the penalties stated in KRS 236.990.

→ Section 525. KRS 236.120 is amended to read as follows:

- (1) If, upon inspection, a boiler or pressure vessel is found to comply with the administrative regulations of the department~~[office]~~, the owner, user, or insurance company of it shall pay to the department~~[office]~~ the sum of fifteen dollars (\$15).

When the inspection is made by a special inspector, the inspector shall attach the certificate fee to his or her report. The chief boiler inspector, or his or her duly authorized representative, shall issue to the owner or user a certificate of inspection for the boiler or pressure vessel bearing the date of inspection and specifying the maximum pressure under which the boiler may be operated. An inspection certificate shall be valid for not more than fourteen (14) months from its date in the case of power boilers, and twenty-six (26) months in the case of low pressure steam or vapor heating boilers, hot water heating boilers, or hot water supply boilers. Certificates shall be posted under glass in the room containing the boiler inspected or, in the case of a portable boiler, shall be kept in a tool box accompanying the boiler.

- (2) No certificate of inspection issued for an insured boiler, inspected by a special inspector, shall be valid after the insurance on the boiler for which it was issued terminates. Boilers shall be insured by a company duly authorized by this state to carry the insurance.

- (3) The commissioner~~[executive director]~~ or his or her authorized representative may at any time suspend a certificate of inspection if, in his or her opinion, the boiler or

1 pressure vessel for which it was issued cannot be operated without menace to the
 2 public safety, or if the boiler or pressure vessel is found not in compliance with this
 3 chapter or the administrative regulations of the department~~{office}~~. A special boiler
 4 inspector shall have corresponding powers with respect to suspending certificates of
 5 inspection for boilers insured by the company employing him or her. The
 6 suspension of a certificate of inspection shall continue in effect until the boiler or
 7 pressure vessel conforms to this chapter and administrative regulations of the board,
 8 and until the inspection certificate is reinstated.

- 9 (4) A suspended certificate of inspection shall be reissued on the recommendation of
 10 the boiler inspector or special boiler inspector who first caused the suspension or at
 11 the discretion of the chief boiler inspector.

12 ➔Section 526. KRS 236.130 is amended to read as follows:

- 13 (1) The owner or user of a boiler or pressure vessel required by this chapter to be
 14 inspected shall pay to the department~~{office}~~, upon completion of inspection,
 15 reasonable fees not to exceed the cost of inspection as established by the
 16 commissioner~~{executive director}~~ upon advice of the board pursuant to KRS
 17 Chapter 13A.

- 18 (2) All other inspections, including shop inspections and inspection of secondhand or
 19 used boilers made by the boiler inspector shall be charged for at the rate set by
 20 regulation promulgated by the commissioner~~{executive director}~~ upon advice of the
 21 board pursuant to KRS Chapter 13A.

- 22 (3) All fees received by the department~~{office}~~ shall be held in a trust and agency fund
 23 from which the expenses of administering this chapter and other department~~{office}~~
 24 responsibilities may be paid and no portion of said fund shall lapse into the general
 25 fund at the end of each fiscal year.

26 ➔Section 527. KRS 236.150 is amended to read as follows:

- 27 (1) Any person aggrieved by an order or act of a boiler and pressure vessel inspector,

under this chapter, may, within fifteen (15) days of notice thereof, appeal from the order or act to the commissioner~~[executive-director]~~ who shall schedule and conduct an administrative hearing in accordance with KRS Chapter 13B.

- (2) Any person aggrieved by a final order of the commissioner~~[executive-director]~~ may file a petition in the Franklin Circuit Court for judicial review in accordance with KRS Chapter 13B.

➔Section 528. KRS 236.210 is amended to read as follows:

- (1) No person shall engage in the business of installing, erecting, or repairing boilers unless he or she first obtains a license from the commissioner~~[executive-director]~~ on recommendation of the board.

- (2) Each person, firm or corporation must pass an examination prepared by the board and administered by the department~~[office]~~.

- (3) A license shall be issued by the commissioner~~[executive-director]~~ or the chief boiler inspector upon recommendation of the board and payment of a reasonable fee not to exceed the cost of examination and other expenses involved as established by the commissioner~~[executive-director]~~ upon advice of the board pursuant to KRS Chapter 13A.

- (4) The license shall be renewable annually, not later than the first of the month following the expiration date, upon payment of a reasonable fee not to exceed the costs involved in such renewal as established by the commissioner~~[executive-director]~~ upon advice of the board pursuant to KRS Chapter 13A.

- (5) All individuals in the employ of a licensee shall not be required to be licensed.

➔Section 529. KRS 236.240 is amended to read as follows:

- (1) No person shall install, erect or make major repairs affecting the strength of a boiler or pressure vessel without first securing a permit from the department~~[office]~~.

Permits shall be issued only to persons licensed under KRS 236.210 to 236.260.

- (2) No work shall be performed except by or under the supervision of such licensed

1 person. The permit fees shall be set by the board.

2 (3) The permit fees will include one (1) interim inspection and one (1) final inspection
3 for issuance of boiler certificate of inspection.

4 (4) Special inspections and more than two (2) inspections requested by the licensee for
5 each permit will be charged fees in accordance with KRS 236.130.

6 ➔Section 530. KRS 236.250 is amended to read as follows:

7 (1) No person shall make major repairs affecting the strength or safety of boilers or
8 pressure vessels without first securing a permit from the department~~{office}~~ unless
9 repairs have been authorized by a boiler inspector or special boiler inspector
10 pending issuance of the permit or unless such repairs are emergency repairs
11 authorized by the department~~{office}~~, a special boiler inspector or a boiler inspector
12 pending issuance of the permit. No permit will be required for emergency items not
13 affecting the strength of the boiler or pressure vessel, when performed by qualified
14 persons regularly employed by firms utilizing properly qualified procedures.
15 Permits shall only be issued to persons licensed under the provisions of this chapter.
16 A permit fee shall be paid directly to the department~~{office}~~, and shall accompany
17 the repair application.

18 (2) Payment of permit to repair fees will not be required from firms utilizing properly
19 qualified welding procedures and regularly employing qualified welders, certified
20 by and registered with the department~~{office}~~, to weld on boilers owned and
21 operated by such firms.

22 ➔Section 531. KRS 236.260 is amended to read as follows:

23 The commissioner~~{executive director}~~, the chief boiler inspector or any deputy inspector
24 shall have free access, during reasonable hours, to any premises in the state where a boiler
25 or pressure vessel is being constructed, installed or repaired for the purpose of
26 ascertaining whether the work being performed is in accordance with the provisions of
27 KRS Chapter 236 or any orders or regulations made thereunder.

1 ➔Section 532. KRS 236.990 is amended to read as follows:

2 (1) It shall be unlawful for any person, firm, partnership, or corporation to operate in
3 this state a boiler or pressure vessel without a valid certificate of inspection. The
4 operation of a boiler or pressure vessel without a valid certificate, or at a pressure
5 exceeding that specified in an inspection certificate, shall constitute a Class B
6 misdemeanor on the part of the owner, user, or operator. Each day of unlawful
7 operation shall constitute a separate offense.

8 (2) Any person who violates the provisions of KRS 236.040(1); 236.080(4);
9 236.110(1), (4) and (5); 236.210(1); 236.220(1); 236.240(1) and (2); 236.250(1); or
10 any proper order or administrative regulation made or promulgated thereunder; or
11 who hinders or obstructs an authorized inspector in the performance of his or her
12 duties under this chapter, shall be subject to the penalties in subsection (1) above.

13 (3) Any person who willfully violates any provision of this chapter, or any
14 administrative regulation, emergency order, or order of the state fire marshal, or an
15 authorized deputy state fire marshal, or the chief boiler inspector, or of any
16 authorized boiler or pressure vessel inspector, promulgated or made pursuant to this
17 chapter, shall be subject to suspension or revocation of any appointment,
18 commission, certification, registration, license, or permit made or issued by the
19 department~~office~~ and held by that person, in accordance with the procedures
20 specified in KRS 236.220, or in lieu of a suspension or revocation, shall be subject
21 to an administrative fine of not less than ten dollars (\$10) and not exceeding five
22 hundred dollars (\$500) after notice and hearing by the board in accordance with
23 KRS 236.220. Each day these violations exist shall, in the discretion of the board,
24 be considered as a separate violation.

25 (4) As an aid to enforcement of the provisions of this chapter, or of any administrative
26 regulation or order relating thereto, the state fire marshal or his or her authorized
27 deputy or employee may take any administrative action or bring any legal action in

1 the manner authorized in KRS Chapter 227 that is designed to prevent or correct
 2 any condition constituting or threatening to constitute a violation of any provision
 3 of this chapter.

4 ➔Section 533. KRS 238.505 is amended to read as follows:

5 As used in this chapter, unless the context requires otherwise:

6 (1) "Department~~[Office]~~" means the Department~~[Office]~~ of Charitable Gaming within
 7 the ~~[Environmental and]~~Public Protection Cabinet;

8 (2) "Charitable gaming" means bingo, charity game tickets, raffles, and charity
 9 fundraising events conducted for fundraising purposes by charitable organizations
 10 licensed and regulated under the provisions of this chapter. "Charitable gaming"
 11 shall not include slot machines, electronic video gaming devices, wagering on live
 12 sporting events, or simulcast broadcasts of horse races;

13 (3) "Charitable organization" means a nonprofit entity organized for charitable,
 14 religious, educational, literary, civic, fraternal, or patriotic purposes;

15 (4) "Bingo" means a specific game of chance in which participants use cards or paper
 16 sheets, or card-minding device representations thereof, divided into horizontal and
 17 vertical spaces, each of which is designated by a letter and a number, and prizes are
 18 awarded on the basis of the letters and numbers on the card conforming to a
 19 predetermined and preannounced configuration of letters and numbers selected at
 20 random;

21 (5) "Charity game ticket" means a game of chance using a folded or banded paper
 22 ticket, or a paper card with perforated break-open tabs, the face of which is covered
 23 or otherwise hidden from view to conceal a number, letter, symbol, or set of
 24 numbers, letters, or symbols, some of which have been designated in advance as
 25 prize winners and shall include charity game tickets that utilize a seal card. "Charity
 26 game ticket" shall include pulltabs;

27 (6) "Seal card" means a board or placard used in conjunction with charity game tickets,

- 1 that contains a seal or seals which, when removed or opened, reveal predesignated
 2 winning numbers, letters, or symbols;
- 3 (7) "Raffle" means a game of chance in which a participant is required to purchase a
 4 ticket for a chance to win a prize, with the winner to be determined by a random
 5 drawing;
- 6 (8) "Charity fundraising event" means an activity of limited duration at which games of
 7 chance approved by the department~~office~~ are conducted, including bingo, raffles,
 8 charity game tickets, special limited charitable games, and wagering on prerecorded
 9 horse races, KRS Chapter 230 notwithstanding. Examples of such activities include
 10 events that attract patrons for community, social, and entertainment purposes apart
 11 from charitable gaming, such as fairs, festivals, carnivals, licensed charitable
 12 gaming organization conventions, and bazaars;
- 13 (9) "Manufacturer" means a person who assembles from raw materials or subparts any
 14 charitable gaming equipment or supplies used in the conduct of charitable gaming,
 15 including a person who converts, modifies, and adds to or removes parts from,
 16 charitable gaming equipment and supplies. The term shall not include:
- 17 (a) Any person who services or repairs charitable gaming supplies and equipment,
 18 so long as that person replaces or repairs an incidental, malfunctioning, or
 19 nonfunctioning part with a similar or identical part; and
- 20 (b) Any distributor who cuts, collates, and packages for distribution any gaming
 21 supplies and equipment purchased in bulk;
- 22 (10) "Distributor" means a person who sells, markets, leases, or otherwise furnishes to a
 23 charitable organization charitable gaming equipment or supplies, or both, used in
 24 the conduct of charitable gaming. "Distributor" shall not include:
- 25 (a) A resident printer who prints raffle tickets at the request of a licensed
 26 charitable organization; and
- 27 (b) A licensed charitable organization that affects a one-time donation of

1 charitable gaming supplies or equipment to another licensed charitable
2 organization if the donation is first approved by the department~~office~~.

3 (11) "Charitable gaming facility" means a person, including a licensed charitable
4 organization, that owns or is a lessee of premises which are leased or otherwise
5 made available to two (2) or more licensed charitable organizations during a one (1)
6 year period for the conduct of charitable gaming;

7 (12) "Gross receipts" means all moneys collected or received from the conduct of
8 charitable gaming;

9 (13) "Adjusted gross receipts" means gross receipts less all cash prizes and the amount
10 paid for merchandise prizes purchased;

11 (14) "Net receipts" means adjusted gross receipts less all expenses, charges, fees, and
12 deductions authorized under this chapter;

13 (15) "Charitable gaming supplies and equipment" means any material, device, apparatus,
14 or paraphernalia customarily used in the conduct of charitable gaming, including
15 bingo cards and paper, charity game tickets, and other apparatus or paraphernalia
16 used in conducting games of chance at charity fundraising events subject to
17 regulation under this chapter. The term shall not include any material, device,
18 apparatus, or paraphernalia incidental to the game, such as pencils, daubers, playing
19 cards, or other supplies that may be purchased from normal sources of supply;

20 (16) "Door prize" means a prize awarded to a person based solely upon the person's
21 attendance at an event or the purchase of a ticket to attend an event;

22 (17) "Special limited charitable game" means roulette; blackjack; poker; keno; money
23 wheel; baccarat; pusher-type games; any dice game where the player competes
24 against the house; and any other game of chance as identified, defined, and
25 approved by administrative regulation of the department~~office~~;

26 (18) "Special limited charity fundraising event" means any type of charity fundraising
27 event, commonly known as and operated as a "casino night," "Las Vegas night," or

- 1 "Monte Carlo night," at which the predominant number or types of games offered
 2 for play are special limited charitable games;
- 3 (19) "Session or bingo session" means a single gathering at which a bingo game or series
 4 of successive bingo games are played, excluding bingo played at a charity
 5 fundraising event;
- 6 (20) "Immediate family" means:
- 7 (a) Spouse and parents-in-law;
 - 8 (b) Parents and grandparents;
 - 9 (c) Children and their spouses; and
 - 10 (d) Siblings and their spouses;
- 11 (21) "Affiliate" means any corporation, partnership, association, or other business or
 12 professional entity or any natural person that directly or indirectly, through one or
 13 more intermediaries, controls, or is controlled by, or is under common control with
 14 a licensed manufacturer, distributor, or charitable gaming facility;
- 15 (22) "Secretary" means the secretary of the ~~{Environmental and }~~Public Protection
 16 Cabinet;
- 17 (23) "Commissioner~~{Executive director}~~" means the commissioner~~{executive director}~~
 18 of the Department~~{Office}~~ of Charitable Gaming within the ~~{Department of }~~Public
 19 Protection Cabinet;
- 20 (24) "Chairperson" means the chief executive officer and any officer, member, or
 21 employee of a licensed charitable organization who will be involved in the
 22 management and supervision of charitable gaming as designated in the
 23 organization's charitable gaming license application under KRS 238.535(9)(g);
- 24 (25) "Year" means calendar year except as used in KRS 238.545(4), 238.547(1), and
 25 238.555(7), when "year" means the licensee's license year; and
- 26 (26) "Card-minding device" means any mechanical, electronic, electromechanical, or
 27 computerized device that is interfaced with or connected to equipment used to

1 conduct a game of bingo and that allows a player to store, display, and mark a bingo
 2 card face. A card-minding device shall not be designed and manufactured to
 3 resemble any electronic gaming device that utilizes a video display monitor, such as
 4 a video lottery terminal, video slot machine, video poker machine, or any similar
 5 video gaming device.

6 ➔Section 534. KRS 238.510 is amended to read as follows:

7 (1) The Department~~{Office}~~ of Charitable Gaming is created as a department~~{an~~
 8 ~~office}~~ within the ~~{Department of }~~Public Protection ~~{within the Environmental and~~
 9 ~~Public Protection }~~Cabinet. The department~~{office}~~ shall license and regulate the
 10 conduct of charitable gaming and license and regulate charitable organizations that
 11 desire to engage in charitable gaming, charitable gaming facilities, manufacturers,
 12 and distributors in the Commonwealth of Kentucky in accordance with the
 13 provisions of this chapter.

14 (2) The department~~{office}~~ shall be headed by a commissioner~~{an executive director}~~
 15 who shall be appointed by the ~~{secretary with the approval of the }~~Governor. The
 16 commissioner~~{executive director}~~ shall employ staff as may be necessary to
 17 administer and enforce the provisions of this chapter.

18 (3) All department~~{office}~~ staff shall be classified and employed in accordance with
 19 applicable personnel requirements of the Personnel Cabinet in accordance with
 20 KRS Chapter 18A.

21 (4) No employee of the department~~{office}~~ during his or her term of employment shall
 22 be an officer in a charitable organization that is licensed to conduct charitable
 23 gaming or be involved in the conduct of charitable gaming as a member of a
 24 licensed charitable organization. No employee of the department~~{office}~~ during his
 25 or her term of employment shall be licensed as a manufacturer, distributor, or
 26 charitable gaming facility, or have a financial interest in any business that is
 27 licensed as a manufacturer, distributor, or charitable gaming facility.

- 1 (5) The commissioner~~[executive director]~~ shall appoint charitable gaming investigators
 2 who shall have the powers of peace officers throughout the Commonwealth;
 3 however, those powers shall be limited to:
- 4 (a) Enforcement of the provisions of KRS Chapter 238, relating to charitable
 5 gaming;
 - 6 (b) Violations of KRS Chapter 528, relating to:
 - 7 1. Unlicensed and illegal charitable gaming;
 - 8 2. Gambling offenses committed on licensed charitable gaming premises;
 9 and
 - 10 3. Gambling offenses committed in conjunction with charitable gaming;
 - 11 (c) Violations of KRS Chapter 514, relating to theft, embezzlement, or other
 12 illegal diversions of charitable gaming proceeds;
 - 13 (d) Violations of KRS Chapters 516 and 517, relating to forgery and fraud in the
 14 conduct of charitable gaming;
 - 15 (e) Violations relating to the damage or destruction of real or personal property
 16 owned or leased by a charitable gaming licensee; and
 - 17 (f) Violation of any criminal felony offense committed:
 - 18 1. On licensed charitable gaming premises; and
 - 19 2. In the presence of a charitable gaming investigator.
- 20 (6) Charitable gaming investigators shall satisfy the certification standards established
 21 by the Department of Criminal Justice Training pursuant to KRS Chapter 15. The
 22 commissioner~~[executive director]~~ may possess peace officer powers granted under
 23 subsection (5) of this section, if he or she is duly qualified. Charitable gaming
 24 investigators shall not qualify for hazardous duty coverage under the Kentucky
 25 Employees Retirement System.
- 26 (7) Charitable gaming investigators so appointed shall not possess peace officer powers
 27 other than those provided in subsection (5) of this section.

1 ➔Section 535. KRS 238.515 is amended to read as follows:

2 The department~~{office}~~ shall license and regulate the conduct of charitable gaming in the
3 Commonwealth of Kentucky. In discharging this responsibility, the department~~{office}~~
4 shall have the following powers and duties:

5 (1) Licensing charitable organizations, charitable gaming facilities, manufacturers, and
6 distributors that desire to engage in charitable gaming;

7 (2) Establishing and enforcing reasonable standards for the conduct of charitable
8 gaming and the operation of charitable gaming facilities;

9 (3) Prescribing reasonable fees for licenses;

10 (4) Establishing standards of accounting, recordkeeping, and reporting to insure
11 charitable gaming receipts are properly accounted for;

12 (5) Establishing a process for reviewing complaints and allegations of wrongdoing, and
13 for investigating complaints with merit. In furtherance of this duty, the
14 department~~{office}~~ shall have the authority to issue administrative subpoenas and
15 summonses. The department~~{office}~~ shall also establish toll-free telephone service
16 for receiving complaints and inquiries;

17 (6) Taking appropriate disciplinary action and making referrals for criminal prosecution
18 of persons who do not operate in compliance with this chapter;

19 (7) Collecting and depositing all fees and fines in the charitable gaming regulatory
20 account and administering the account;

21 (8) Employing necessary staff, securing adequate office space, and executing other
22 administrative and logistical matters as may be necessary to assure proper
23 functioning of the department~~{office}~~; and

24 (9) Promulgating administrative regulations, in accordance with KRS Chapter 13A,
25 which are necessary to carry out the purposes and intent of this chapter. Any
26 administrative regulation proposed by the department~~{office}~~ that changes the
27 manner in which a charitable organization conducts charitable gaming or is likely to

1 cause a charitable organization to incur new or additional costs shall be subject to
 2 the requirements of KRS 238.522. In promulgating administrative regulations under
 3 this subsection, the department~~[office]~~ shall submit any proposed regulations to the
 4 advisory commission established under KRS 238.520, and shall not promulgate the
 5 administrative regulations without giving the advisory commission the opportunity
 6 to produce written comments in accordance with KRS 238.522. If the advisory
 7 commission chooses to produce written comments, the comments shall be attached
 8 to any public submission of the administrative regulation, including any filing under
 9 KRS Chapter 13A.

10 ➔Section 536. KRS 238.520 is amended to read as follows:

11 (1) The Charitable Gaming Advisory Commission is created to be composed of nine (9)
 12 members consisting of:

- 13 (a) The secretary of the ~~[Environmental and]~~Public Protection Cabinet or his
 14 designee;
- 15 (b) The Attorney General or his designee;
- 16 (c) One (1) representative from the Kentucky Commonwealth's Attorneys
 17 Association;
- 18 (d) One (1) representative from the Kentucky Charitable Gaming Association;
- 19 (e) One (1) certified public accountant;
- 20 (f) One (1) member selected from the public at large;
- 21 (g) One (1) representative selected from the Joint Executive Council of Veterans
 22 Organizations of Kentucky;
- 23 (h) One (1) representative from Catholic organizations; and
- 24 (i) One (1) representative from Kentucky's volunteer firefighter organizations.

25 The certified public accountant, the one (1) at-large member, and the representatives
 26 from the Kentucky Commonwealth's Attorneys Association and the Kentucky
 27 Charitable Gaming Association shall be appointed by the Governor. The

1 representative from each of the two (2) associations, the one (1) representative from
 2 the Joint Executive Council of Veterans Organizations of Kentucky, the one (1)
 3 representative from the Catholic organizations, and the one (1) representative from
 4 the volunteer firefighter organizations shall be selected from a list of at least three
 5 (3) names submitted to the Governor by the respective association.

6 (2) Initial appointments to the commission shall be for staggered terms as follows: one
 7 (1) member for a term of one (1) year; two (2) members for a term of two (2) years;
 8 two (2) members for a term of three (3) years; and two (2) members for a term of
 9 four (4) years. Thereafter, each member shall be appointed for a term of four (4)
 10 years. No member from the public at large shall be appointed in the same year.
 11 Vacancies shall be filled in the same manner as the original appointment for the
 12 unexpired portion of the term. No member of the commission may serve more than
 13 two (2) full terms.

14 (3) The Charitable Gaming Advisory Commission shall provide ongoing advice and
 15 input to the department~~{office}~~ and to the General Assembly but shall not become
 16 directly involved in the licensing and regulation of charitable gaming by the
 17 department~~{office}~~.

18 (4) The commission shall meet quarterly, upon the request of the chair or four (4) of its
 19 members or as otherwise directed by the department~~{office}~~. Five (5) members
 20 shall constitute a quorum for conducting business. The commission shall annually
 21 elect a chairman from its membership, and no person elected chairman shall serve
 22 more than two (2) consecutive terms of one (1) year each. Members shall receive no
 23 compensation for serving on the commission, but shall be reimbursed for travel
 24 expenses for attending meetings and performing other official functions, consistent
 25 with state reimbursement policy for state employees.

26 ➔Section 537. KRS 238.522 is amended to read as follows:

27 (1) (a) If the department~~{office}~~ has proposed a new or amended administrative

1 regulation that changes the manner in which a charitable organization
 2 conducts charitable gaming or is likely to cause a charitable organization to
 3 incur new or additional costs, the department~~{office}~~ shall not promulgate the
 4 proposed administrative regulation without first receiving comments from the
 5 Charitable Gaming Advisory Commission established in KRS 238.520,
 6 subject to the restrictions of paragraph (b) of this subsection.

- 7 (b) 1. If the proposed administrative regulation qualifies under paragraph (a) of
 8 this subsection, the department~~{office}~~ shall distribute the proposed
 9 administrative regulation to the advisory commission.
- 10 2. The advisory commission shall be granted a maximum of sixty (60) days
 11 to submit its comments on the proposed regulatory change. If the
 12 administrative regulation is a new emergency regulation, the advisory
 13 commission shall be granted a maximum of thirty (30) days to submit its
 14 comments on the proposed regulatory change.
- 15 3. The time limits in this paragraph shall begin from the day the
 16 department~~{office}~~ submits the regulatory change and sets a date for a
 17 proposed hearing for the comments of the advisory commission. If the
 18 advisory commission is already scheduled to meet at a time that will
 19 give it an adequate opportunity to review the regulation and respond, the
 20 hearing may be held at that meeting.
- 21 4. If an advisory commission is not scheduled to meet, the
 22 department~~{office}~~ shall arrange for the advisory commission to meet at
 23 a time that will provide the advisory commission an adequate
 24 opportunity to review and comment on the regulation within the time
 25 limit. If the advisory commission fails to comment within the time limit,
 26 the department~~{office}~~ may proceed with the administrative changes at
 27 its discretion.

(c) To the extent that any other statute relating to the department's~~office's~~ authority to promulgate administrative regulations conflicts with this section, this section shall take precedence.

(d) If the advisory commission chooses to produce written comments, these comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A, and may include majority or minority comments or both.

(2) Any power or limitation relating to administrative regulations promulgated by the department~~office~~ that are subject to subsection (1) of this section shall also apply to administrative regulations promulgated by the commissioner~~executive director~~ of the department~~office~~.

→ Section 538. KRS 238.525 is amended to read as follows:

(1) Licenses shall be issued by the department~~office~~ on an annual or biennial basis, except as otherwise permitted in KRS 238.530 and 238.545. A license term may be determined by the department~~office~~ in any manner it deems appropriate to facilitate efficient licensing. The department~~office~~ shall charge a renewal fee not to exceed the maximum amounts established in KRS 238.530, 238.535, and 238.555.

(2) The department~~office~~ may issue a temporary license to an applicant who has met the requirements for a license. A temporary license shall be valid from the date of issuance until the regular license is issued or for a period of sixty (60) days, whichever is shorter. A temporary license shall not be renewed, except for good cause and shall not exceed a total of nine (9) months in length.

(3) An applicant for any license to be issued under KRS 238.530 and 238.555 shall be subjected to a state and national criminal history background check by the department~~office~~, with the assistance of the Department of Kentucky State Police and the Federal Bureau of Investigation. An applicant for any license to be issued

1 under KRS 238.535 shall be subjected to a state criminal history background check
2 and may, if deemed reasonably necessary, be subjected to a national criminal history
3 background check by the department~~{office}~~ with the assistance of the Department
4 of Kentucky State Police and the Federal Bureau of Investigation. The criminal
5 history background check shall apply to the chief executive officer and the chief
6 financial officer or director of an applicant; any employee or member of an
7 applicant who has been designated as chairperson of the charitable gaming activity;
8 the applicant itself; and any individual with a ten percent (10%) or more financial
9 interest in the applicant. The department~~{office}~~ shall require the fingerprinting of
10 all applicants for licensure under KRS 238.530 and 238.555 and may require, if
11 deemed reasonably necessary, the fingerprints of all applicants for licensure under
12 KRS 238.535, who are natural persons in connection with the national criminal
13 history background check to assure the identity of the applicant or applicants. The
14 department~~{office}~~ may charge a reasonable fee not to exceed the actual cost of
15 fingerprinting and records searching.

16 (4) No applicant shall be licensed and no license holder shall be able to maintain a
17 license if an individual associated with the applicant or license holder in a capacity
18 listed in subsection (3) of this section or the applicant or license holder itself has
19 been convicted of a felony, gambling offense, criminal fraud, forgery, theft,
20 falsifying business records, violation of KRS 238.995(7), or any two (2)
21 misdemeanor crimes in federal court or the courts of any state, the District of
22 Columbia, or any territory, consistent with the provisions of KRS Chapter 335B
23 within ten (10) years preceding the application for licensure.

24 (5) No applicant shall be licensed unless all applicants required to be fingerprinted
25 under the provision of subsection (3) of this section have been fingerprinted. The
26 Department of Kentucky State Police may submit fingerprints of any applicant to
27 the Federal Bureau of Investigation for the national criminal history background

1 check. The department~~{office}~~ may by administrative regulation impose additional
2 qualifications to meet the requirements of Pub. L. 92-544.

- 3 (6) If a change occurs in any information submitted during the license application
4 process, the applicant or licensee shall notify the department~~{office}~~ in writing
5 within thirty (30) days of the date the change occurred.

6 ➔Section 539. KRS 238.530 is amended to read as follows:

- 7 (1) No person shall sell, offer to sell, rent, lease, or otherwise furnish charitable gaming
8 supplies or equipment unless the person is licensed by the department~~{office}~~ as a
9 distributor. The department~~{office}~~ shall charge a license fee not to exceed one
10 thousand dollars (\$1,000).

- 11 (2) No person shall sell, offer to sell, rent, lease, or otherwise furnish charitable gaming
12 supplies and equipment unless the person is licensed by the department~~{office}~~ as a
13 manufacturer. The department~~{office}~~ shall charge a license fee not to exceed one
14 thousand dollars (\$1,000).

- 15 (3) No person who is licensed as a charitable organization, and no owner, officer,
16 employee, or member of the immediate family of an owner, officer, or employee of
17 a licensed charitable gaming facility shall be eligible for licensure as a distributor or
18 manufacturer. No affiliate of an owner, officer, or employee, or member of the
19 immediate family of an owner, officer, or employee of a licensed charitable gaming
20 facility shall be licensed as a distributor or manufacturer. No person who is a
21 licensed wholesaler or distributor of alcoholic beverages shall be licensed as a
22 distributor or manufacturer. No person who is licensed as a distributor shall be
23 licensed as a manufacturer, and no person licensed as a manufacturer shall be
24 licensed as a distributor.

- 25 (4) An applicant for a license as a manufacturer or distributor shall apply for license on
26 forms provided by the department~~{office}~~ and shall submit as part of the application
27 process the following:

- 1 (a) The full name, address, date of birth, and Social Security number of the
- 2 applicant;
- 3 (b) If the applicant is a corporation or other business entity, the names, addresses,
- 4 dates of birth, and Social Security numbers of all officers and management
- 5 personnel;
- 6 (c) The name, address, date of birth, and Social Security number of any individual
- 7 who has ten percent (10%) or more financial interest in the applicant
- 8 organization;
- 9 (d) Federal employer tax number;
- 10 (e) A sworn statement by the applicant or the appropriate officer that all
- 11 information provided is true and correct and that the applicant agrees to
- 12 comply with the applicable provisions of this chapter and all applicable
- 13 administrative regulations promulgated thereunder;
- 14 (f) The name, address, and telephone number of a registered agent within the
- 15 Commonwealth of Kentucky, if the applicant is not a resident; and
- 16 (g) Any other information the department~~{office}~~ deems appropriate.
- 17 (5) Each licensed manufacturer and distributor shall maintain a complete set of records
- 18 as may be required by the department~~{office}~~ to document all activities related to
- 19 the sale, rental, lease, or furnishing of charitable gaming supplies and equipment in
- 20 the Commonwealth of Kentucky. These records shall be available for inspection by
- 21 the department~~{office}~~ at reasonable times, and all records shall be maintained for a
- 22 minimum of three (3) years. The department~~{office}~~ may require a licensed
- 23 manufacturer and distributor to report on its activity, with the content and frequency
- 24 of these reports to be prescribed by administrative regulation promulgated by the
- 25 department~~{office}~~.
- 26 (6) A distributor who does not receive payment in accordance with the terms of its sales
- 27 or lease agreement from a licensed charitable organization within thirty (30) days of

1 the delivery of charitable gaming supplies and equipment shall notify the
2 department~~{office}~~ of the delinquency in writing in a form and manner prescribed
3 by the department~~{office}~~. A manufacturer who does not receive payment in full
4 from a distributor within sixty (60) days of the delivery of charitable gaming
5 supplies and equipment shall notify the department~~{office}~~ of the delinquency in
6 writing in a form and manner prescribed by the department~~{office}~~.

7 (7) A licensed manufacturer shall not sell charitable gaming supplies and equipment to
8 any person not licensed as a distributor in the Commonwealth of Kentucky.

9 (8) A licensed distributor shall not sell charitable gaming supplies and equipment to
10 any person not licensed as a distributor or a charitable organization in the
11 Commonwealth of Kentucky, unless the organization is exempted from licensure
12 under the provisions of this chapter.

13 (9) A licensed distributor shall not purchase charitable gaming supplies and equipment
14 from any person not licensed as a manufacturer or distributor in the Commonwealth
15 of Kentucky.

16 (10) No officer, owner, employee, or contractee of a licensed distributor or licensed
17 manufacturer or their affiliates and no member of the immediate family of an
18 owner, officer, employee, or contractee of a licensed distributor or licensed
19 manufacturer or their affiliates, shall, with respect to a licensed charitable
20 organization:

21 (a) Manage or otherwise be involved in the conduct of charitable gaming;

22 (b) Provide bookkeeping or other accounting services related to the conduct of
23 charitable gaming;

24 (c) Handle any moneys generated in the conduct of charitable gaming;

25 (d) Advise a licensed charitable organization on the expenditure of net receipts;

26 (e) Provide transportation services in any manner to patrons of a charitable
27 gaming activity;

- 1 (f) Provide advertisement or marketing services in any manner to a licensed
- 2 charitable organization;
- 3 (g) Provide, coordinate, or solicit the services of personnel or volunteers in any
- 4 manner;
- 5 (h) Provide training or consulting on the conduct of charitable gaming, except in
- 6 connection with the use of its own equipment or supplies;
- 7 (i) Store its charitable gaming equipment or supplies in or on the premises of a
- 8 licensed charitable gaming facility; or
- 9 (j) Donate or give any prize to be awarded in the conduct of charitable gaming.

10 ➔Section 540. KRS 238.535 is amended to read as follows:

- 11 (1) Any charitable organization conducting charitable gaming in the Commonwealth of
- 12 Kentucky shall be licensed by the department~~{office}~~. A charitable organization
- 13 qualifying under subsection (8) of this section but not exceeding the limitations
- 14 provided in this subsection shall be exempt from the licensure requirements when
- 15 conducting the following charitable gaming activities:

- 16 (a) Bingo in which the gross receipts do not exceed a total of twenty-five
- 17 thousand dollars (\$25,000) per year;
- 18 (b) A raffle or raffles for which the gross receipts do not exceed twenty-five
- 19 thousand dollars (\$25,000) per year; and
- 20 (c) A charity fundraising event or events that do not involve special limited
- 21 charitable games and the gross gaming receipts for which do not exceed
- 22 twenty-five thousand dollars (\$25,000) per year.

23 However, at no time shall a charitable organization's total limitations under this

24 subsection exceed twenty-five thousand dollars (\$25,000).

- 25 (2) Any charitable organization exempt from the process of applying for a license under
- 26 subsection (1) of this section, shall notify the department~~{office}~~ in writing, on a
- 27 simple form issued by the department~~{office}~~, of its intent to engage in exempt

charitable gaming and the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter relating to the conduct of charitable gaming, except:

- (a) Payment of the fee imposed under the provisions of KRS 238.570; and
- (b) The quarterly reporting requirements imposed under the provisions of KRS 238.550(7), unless the exempt charitable organization obtains a retroactive license pursuant to subsection (5) of this section.

Before the last day of each year, a charitable organization exempt from licensure under the provisions of subsection (1) of this section shall file with the department~~office~~ a financial report detailing the type of gaming activity in which it engaged during that year, the total gross receipts derived from gaming, the amount of charitable gaming expenses paid, the amount of net receipts derived, and the disposition of those net receipts. This report shall be filed on a form issued by the department~~office~~. Upon receipt of the yearly financial report, the department~~office~~ shall notify the charitable organization submitting it that its exemption is renewed for the next year. If the department~~office~~ determines that information appearing on the financial report renders the charitable organization ineligible to possess an exemption, the department~~office~~ shall revoke the exemption. The organization may request an appeal of this revocation pursuant to KRS 238.565. If an exemption is revoked because an organization has exceeded the limit imposed in subsection (1) of this section, the organization shall apply for a retroactive license in accordance with subsection (3) of this section.

(3) If an organization exceeds the limit imposed by any subsection of this section it shall:

- (a) Report the amount to the department~~office~~; and
- (b) Apply for a retroactive charitable gaming license.

- 1 (4) Upon receipt of a report and application for a retroactive charitable gaming license,
2 the department~~[office]~~ shall investigate to determine if the organization is
3 otherwise qualified to hold the license.
- 4 (5) If the department~~[office]~~ determines that the applicant is qualified, it shall issue a
5 charitable gaming license retroactive to the date on which the exemption limit was
6 exceeded. The retroactive charitable gaming license shall be issued in the same
7 manner as regular charitable gaming licenses.
- 8 (6) If the department~~[office]~~ determines that the applicant is not qualified it shall deny
9 the license and take enforcement action, if appropriate.
- 10 (7) Once a retroactive or regular gaming license is issued to an organization, that
11 organization shall not be eligible for exempt status in the future and shall maintain a
12 charitable gaming license if it intends to continue charitable gaming activities,
13 unless the charitable organization has not exceeded the exemption limitations of
14 subsection (1) of this section for a period of two (2) years prior to its exemption
15 request.
- 16 (8) In order to qualify for licensure, a charitable organization shall:
- 17 (a) 1. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4),
18 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling
19 issued by the Internal Revenue Service under authority of those sections;
20 or
- 21 2. Be organized within the Commonwealth of Kentucky as a common
22 school as defined in KRS 158.030, as an institution of higher education
23 as defined in KRS 164A.305, or as a state college or university as
24 provided for in KRS 164.290;
- 25 (b) Have been established and continuously operating within the Commonwealth
26 of Kentucky for charitable purposes, other than the conduct of charitable
27 gaming, for a period of three (3) years prior to application for licensure. For

1 purposes of this paragraph, an applicant shall demonstrate establishment and
 2 continuous operation in Kentucky by its conduct of charitable activities from
 3 an office physically located within Kentucky both during the three (3) years
 4 immediately preceding its application for licensure and at all times during
 5 which it possesses a charitable gaming license. However, a charitable
 6 organization that operates for charitable purposes in more than ten (10) states
 7 and whose principal place of business is physically located in a state other
 8 than Kentucky may satisfy the requirements of this paragraph if it can
 9 document that it has:

- 10 1. Been actively engaged in charitable activities and has made reasonable
 11 progress, as defined in paragraph (c) of this subsection, in the conduct of
 12 charitable activities or the expenditure of funds within Kentucky for a
 13 period of three (3) years prior to application for licensure; and
- 14 2. Operated for charitable purposes from an office or place of business in
 15 the Kentucky county where it proposes to conduct charitable gaming for
 16 at least one (1) year prior to application for licensure, in accordance with
 17 paragraph (d) of this subsection;

- 18 (c) Have been actively engaged in charitable activities during the three (3) years
 19 immediately prior to application for licensure and be able to demonstrate, to
 20 the satisfaction of the department~~[office]~~, reasonable progress in
 21 accomplishing its charitable purposes during this period. As used in this
 22 paragraph, "reasonable progress in accomplishing its charitable purposes"
 23 means the regular and uninterrupted conduct of activities within the
 24 Commonwealth or the expenditure of funds within the Commonwealth to
 25 accomplish relief of poverty, advancement of education, protection of health,
 26 relief from disease, relief from suffering or distress, protection of the
 27 environment, conservation of wildlife, advancement of civic, governmental, or

1 municipal purposes, or advancement of those purposes delineated in KRS
2 238.505(3). In order to demonstrate reasonable progress in accomplishing its
3 charitable purposes when applying to renew an existing license, a licensed
4 charitable organization shall additionally provide to the department~~{office}~~ a
5 detailed accounting regarding its expenditure of charitable gaming net receipts
6 for the purposes described in this paragraph; and

- 7 (d) Have maintained an office or place of business, other than for the conduct of
8 charitable gaming, for one (1) year in the county in which charitable gaming is
9 to be conducted. The office or place of business shall be a separate and
10 distinct address and location from that of any other licensee of the
11 Department~~{Office}~~ of Charitable Gaming; except that up to three (3) licensed
12 charitable organizations may have the same address if they legitimately share
13 office space. For the conduct of a raffle, the county in which charitable
14 gaming is to be conducted shall be the county in which the raffle drawing is to
15 be conducted. However, a charitable organization that has established and
16 maintained an office or place of business in the county for a period of at least
17 one (1) year may hold a raffle drawing or a charity fundraising event,
18 including special limited charity fundraising events, in a Kentucky county
19 other than that in which the organization's office or place of business is
20 located. For raffles, the organization shall notify the Department~~{Office}~~ of
21 Charitable Gaming in writing of the organization's intent to change the
22 drawing's location at least thirty (30) days before the drawing takes place. This
23 written notification may be transmitted in any commercially reasonable
24 means, authorized by the department~~{office}~~, including facsimile and
25 electronic mail. The notification shall set out the place and the county in
26 which the drawing will take place. Approval by the department~~{office}~~ shall
27 be received prior to the conduct of the raffle drawing at the new location. Any

1 charitable organization that was registered with the county clerk to conduct
2 charitable gaming in a county on or before March 31, 1992, shall satisfy this
3 requirement if it maintained a place of business or operation, other than for the
4 conduct of charitable gaming, for one (1) year prior to application in a
5 Kentucky county adjoining the county in which they were registered. Any
6 licensed charitable organization that qualifies to conduct charitable gaming in
7 an adjoining county under this paragraph, shall be permitted to conduct in its
8 county of residence a charity fundraising event.

9 (9) In applying for a license, the information to be submitted shall include but not be
10 limited to the following:

- 11 (a) The name and address of the charitable organization;
- 12 (b) The date of the charitable organization's establishment in the Commonwealth
13 of Kentucky and the date of establishment in the county in which charitable
14 gaming is to be conducted;
- 15 (c) A statement of the charitable purpose or purposes for which the organization
16 was organized. If the charitable organization is incorporated, a copy of the
17 articles of incorporation shall satisfy this requirement;
- 18 (d) A statement explaining the organizational structure and management of the
19 organization. For incorporated entities, a copy of the organizations' bylaws
20 shall satisfy this requirement;
- 21 (e) A detailed accounting of the charitable activities in which the charitable
22 organization has been engaged for the three (3) years preceding application for
23 licensure;
- 24 (f) The names, addresses, dates of birth, and Social Security numbers of all
25 officers of the organization;
- 26 (g) The names, addresses, dates of birth, and Social Security numbers of all
27 employees and members of the charitable organization who will be involved

- 1 in the management and supervision of charitable gaming. No fewer than two
 2 (2) employees or members of the charitable organization who are involved in
 3 the management and supervision of charitable gaming, along with the chief
 4 executive officer or the director of the applicant organization, shall be
 5 designated as chairpersons;
- 6 (h) The address of the location at which charitable gaming will be conducted and
 7 the name and address of the owner of the property, if it is owned by a person
 8 other than the charitable organization;
- 9 (i) A copy of the letter or other legal document issued by the Internal Revenue
 10 Service to grant tax-exempt status;
- 11 (j) A statement signed by the presiding or other responsible officer of the
 12 charitable organization attesting that the information submitted in the
 13 application is true and correct and that the organization agrees to comply with
 14 all applicable laws and administrative regulations regarding charitable
 15 gaming;
- 16 (k) An agreement that the charitable organization's records may be released by the
 17 Federal Internal Revenue Service to the department~~{office}~~; and
- 18 (l) Any other information the department~~{office}~~ deems appropriate.
- 19 (10) An organization or a group of individuals that does not meet the licensing
 20 requirements of subsection (8) of this section may hold a raffle if the gross receipts
 21 do not exceed one hundred fifty dollars (\$150) and all proceeds from the raffle are
 22 distributed to a charitable organization. The organization or group of individuals
 23 may hold up to three (3) raffles each year, and shall be exempt from complying with
 24 the notification, application, and reporting requirements of subsections (2) and (9)
 25 of this section.
- 26 (11) The department~~{office}~~ may issue a license for a specified period of time, based on
 27 the type of charitable gaming involved and the desired duration of the activity.

1 (12) The department~~{office}~~ shall charge a fee for each license issued and renewed, not
 2 to exceed three hundred dollars (\$300). Specific fees to be charged shall be
 3 prescribed in a graduated scale promulgated by administrative regulations and based
 4 on type of license, type of charitable gaming, actual or projected gross receipts, or
 5 other applicable factors, or combination of factors.

6 (13) (a) A licensed charitable organization may place its charitable gaming license in
 7 escrow if:

- 8 1. The licensee notifies the department~~{office}~~ in writing that it desires to
 9 place its license in escrow; and
- 10 2. The license is in good standing and the department~~{office}~~ has not
 11 initiated disciplinary action against the licensee.

12 (b) During the escrow period, the licensee shall not engage in charitable gaming,
 13 and the escrow period shall not be included in calculating the licensee's
 14 retention rate under KRS 238.536.

15 (c) A charitable organization may apply for reinstatement of its active license and
 16 the license shall be reinstated provided:

- 17 1. The charitable organization continues to qualify for licensure;
- 18 2. The charitable organization has not engaged in charitable gaming during
 19 the escrow period; and
- 20 3. The charitable organization pays a reinstatement fee established by the
 21 department~~{office}~~.

22 ➔Section 541. KRS 238.536 is amended to read as follows:

23 (1) The net receipts from charitable gaming retained by a charitable organization for the
 24 previous calendar year, provided the charitable organization was licensed at the start
 25 of the calendar year, shall be equal to or greater than forty percent (40%) of the
 26 adjusted gross receipts of the charitable organization for the same period. A licensed
 27 charitable organization shall expend net receipts exclusively for purposes consistent

with the charitable, religious, educational, literary, civic, fraternal, or patriotic functions or objectives for which the licensed charitable organization received and maintains federal tax-exempt status, or consistent with its status as a common school, an institution of higher education, or a state college or university. No net receipts shall inure to the benefits or financial gain of an individual. Any charitable organization which permits its license to expire or otherwise lapse shall still be subject to the retention requirement. The following fees and taxes shall be excluded from the calculation of the percentage retained, retroactive to calculations made for calendar year 1999:

- (a) All fees paid to the department~~[office]~~ during the calendar year;
- (b) Any sales or use taxes levied under KRS Chapter 139 on charitable gaming supplies and equipment that are paid by a licensed charitable organization during the calendar year; and
- (c) Any federal excise taxes levied under 26 U.S.C. secs. 4401 and 4411 and paid by a licensed charitable organization during the calendar year.

(2) The following actions shall be imposed on a licensed charitable organization that fails to retain the requisite percentage of adjusted gross receipts required in subsection (1) of this section. The calculation of percentages shall be rounded to the nearest tenth of a percent:

- (a) If the percentage retained is between thirty-five percent (35%) and thirty-nine and nine-tenths percent (39.9%), the licensee shall be placed on probation for a period of six (6) months and shall be required to submit to the department~~[office]~~ an acceptable financial plan detailing corrective actions to be taken by the licensee to achieve the forty percent (40%) threshold by the end of the calendar year in which the probation is imposed;
- (b) If the percentage retained is between thirty percent (30%) and thirty-four and nine-tenths percent (34.9%), the licensee shall be placed on probation for a

1 period of one (1) year and shall be required to submit to the
 2 department~~{office}~~ a financial plan as described in paragraph (a) of this
 3 subsection. The department~~{office}~~ shall conduct a six (6) month review of
 4 the charitable gaming activities of a licensee placed on probation pursuant to
 5 this subsection to evaluate the licensee's compliance with its financial plan;

6 (c) If the percentage retained falls between twenty-nine and nine-tenths percent
 7 (29.9%) and twenty-five percent (25%), the licensee shall be placed on
 8 probation for a period of one (1) year, shall submit to the department~~{office}~~
 9 an acceptable financial plan as described in paragraph (a) of this subsection,
 10 and shall participate in a mandatory training program designed by the
 11 department~~{office}~~. The department~~{office}~~ shall conduct a quarterly review
 12 of the licensee's activities to evaluate the licensee's compliance with its
 13 financial plan and its progress toward achievement of the forty percent (40%)
 14 threshold during the probationary period;

15 (d) If the percentage falls below twenty-five percent (25%) or if the licensee fails
 16 to attain the forty percent (40%) threshold for a second consecutive calendar
 17 year, the licensee shall have its license suspended for a period of one (1) year;
 18 and

19 (e) For purposes of paragraphs (a), (b), (c), and (d) of this subsection, periods of
 20 probation and suspension shall commence, unless appealed, from the date the
 21 department~~{office}~~ notifies the licensee of its failure to satisfy the retention
 22 requirement for the previous calendar year. If a probation or suspension is
 23 appealed, the action shall commence on the date final adjudication of the
 24 matter is complete.

25 (3) Any licensee that has had its license suspended under the provisions of subsection
 26 (2)(d) of this section shall be required to submit to the department~~{office}~~ an
 27 acceptable financial plan as described in subsection (2)(a) of this section, upon

1 applying for reinstatement of its license. As a condition of reinstatement, the
 2 licensee shall be on probation for a period of one (1) year and shall be subject to
 3 quarterly review by the department~~{office}~~ in accordance with subsection (2)(c) of
 4 this section.

- 5 (4) Any licensee that has had its license revoked, has had its renewal application
 6 denied, or has had action initiated to revoke, suspend, or deny its license for failure
 7 to meet the forty percent (40%) retention threshold prior to July 14, 2000, may
 8 petition the department~~{office}~~ for reconsideration of its action or proposed action.
 9 Upon petition for reconsideration, the department~~{office}~~ shall apply the standards
 10 contained in subsection (2) of this section and shall adjust the license status of the
 11 petitioner accordingly. The department~~{office}~~ shall give credit for the amount of
 12 time a license has been revoked in assessing penalties under subsection (2) of this
 13 section not to exceed the amount of time imposed under the new penalty.

14 ➔Section 542. KRS 238.540 is amended to read as follows:

- 15 (1) Except as provided in KRS 238.535(8)(d), charitable gaming shall be conducted by
 16 a licensed charitable organization at the location, date, and time which shall be
 17 stated on the license. The licensee shall request a change in the date, time, or
 18 location of a charitable gaming event by mail, electronic mail, or facsimile
 19 transmission, and shall submit a lease and an original signature of an officer. The
 20 department~~{office}~~ shall process this request and issue or deny a license within ten
 21 (10) days.
- 22 (2) All premises or facilities on which or in which charitable gaming is conducted shall
 23 meet all applicable federal, state, and local code requirements relating to life, safety,
 24 and health.
- 25 (3) A license to conduct charitable gaming shall be prominently displayed on or in the
 26 premises where charitable gaming is conducted, in a conspicuous location that is
 27 readily accessible to gaming patrons as well as employees of the

1 department~~office~~, law enforcement officials, and other interested officials.

- 2 (4) At least one (1) chairperson who is listed on the application for licensure shall be at
3 each charitable gaming activity conducted by the charitable organization and shall
4 be responsible for the administration and conduct of the charitable gaming activity.
5 No person shall serve as chairperson for more than one (1) charitable organization.
6 The chairperson shall be readily identifiable as the chairperson and shall be present
7 on the premises continuously during the charitable gaming activity. Charitable
8 gaming shall be conducted and administered solely by officers, members, and bona
9 fide employees of the licensed charitable organization. Volunteer personnel, who
10 may or may not be members of the licensed charitable organization, may be utilized
11 if each volunteer is readily identifiable as a volunteer. No person engaged in the
12 conduct and administration of charitable gaming shall receive any compensation for
13 services related to the charitable gaming activities, including tipping. No net
14 receipts derived from charitable gaming shall inure to the private benefit or
15 financial gain of any individual. Any effort or attempt to disguise any other type of
16 compensation or private inurement shall be considered an unauthorized diversion of
17 funds and shall be actionable under KRS 238.995.
- 18 (5) No licensed charitable organization shall contract with, or otherwise utilize the
19 services of, any management company, service company, or consultant in managing
20 or conducting any aspect of charitable gaming.
- 21 (6) A licensed charitable organization shall not purchase or lease charitable gaming
22 supplies and equipment from any person not licensed as a distributor in the
23 Commonwealth of Kentucky.
- 24 (7) A licensed charitable organization shall not accept any merchandise prizes donated
25 by any owner, officer, employee, or contractee of a licensed manufacturer,
26 distributor, charitable gaming facility, or any of their affiliates, or any member of
27 their immediate families.

1 (8) Any advertisement of charitable gaming, regardless of the medium used, shall
2 contain the name of the charitable organization conducting the charitable gaming
3 and its license number. An advertisement for a bingo session or sessions shall not
4 advertise a bingo prize in excess of the limitation of five thousand dollars (\$5,000)
5 per twenty-four (24) hour period set forth in KRS 238.545(1).

6 ➔Section 543. KRS 238.545 is amended to read as follows:

7 (1) A licensed charitable organization shall be limited by the following:

8 (a) In the conduct of bingo, to one (1) session per day, two (2) sessions per week,
9 for a period not to exceed five (5) consecutive hours in any day and not to
10 exceed ten (10) total hours per week. No licensed charitable organization shall
11 conduct bingo at more than one (1) location during the same twenty-four (24)
12 hour period. No licensed charitable organization shall award prizes for bingo
13 that exceed five thousand dollars (\$5,000) in fair market value per twenty-four
14 (24) hour period, including the value of door prizes. No person under the age
15 of eighteen (18) shall be permitted to purchase bingo supplies or play bingo. A
16 charitable organization may permit persons under age eighteen (18) to play
17 bingo for noncash prizes if they are accompanied by a parent or legal guardian
18 and only if the value of any noncash prize awarded does not exceed ten dollars
19 (\$10);

20 (b) A licensed charitable organization may provide card-minding devices for use
21 by players of bingo games. If a licensed charitable organization offers card-
22 minding devices for use by players, the devices shall be capable of being used
23 in conjunction with bingo cards or paper sheets at all times. The
24 department~~[office]~~ shall have broad authority to define and regulate the use of
25 card-minding devices and shall promulgate an administrative regulation
26 concerning use and control of them;

27 (c) Charity game tickets shall be sold only at the address of the location

1 designated on the license to conduct charitable gaming;

2 (d) Charity game tickets may be sold, with prior approval of the
3 department~~{office}~~:

4 1. At any authorized special charity fundraising event conducted by a
5 licensed charitable organization at any off-site location; or

6 2. By a licensed charitable organization possessing a special limited
7 charitable gaming license at any off-site location; and

8 (e) An automated charity game ticket dispenser may be utilized by a licensed
9 charitable organization, with the prior approval of the department~~{office}~~,
10 only at the address of the location designated on the license to conduct
11 charitable gaming, and only during bingo sessions. The department~~{office}~~
12 shall promulgate administrative regulations regulating the use and control of
13 approved automated charity game ticket dispensers.

14 (2) No prize for an individual charity game ticket shall exceed five hundred ninety-nine
15 dollars (\$599) in value, not including the value of cumulative or carryover prizes
16 awarded in seal card games. Cumulative or carryover prizes in seal card games shall
17 not exceed two thousand four hundred dollars (\$2,400). Information concerning
18 rules of the particular game and prizes that are to be awarded in excess of fifty
19 dollars (\$50) in each separate package or series of packages with the same serial
20 number and all rules governing the handling of cumulative or carryover prizes in
21 seal card games shall be posted prominently in an area where charity game tickets
22 are sold. A legible poster that lists prizes to be awarded, and on which prizes
23 actually awarded are posted at the completion of the sale of each separate package
24 shall satisfy this requirement. Any unclaimed money or prize shall return to the
25 charitable organization. No charity game ticket shall be sold in the Commonwealth
26 of Kentucky that does not conform to the standards for opacity, randomization,
27 minimum information, winner protection, color, and cutting established by the

- 1 department{office}. No person under the age of eighteen (18) shall be permitted to
2 purchase, or open in any manner, a charity game ticket.
- 3 (3) Tickets for a raffle shall be sold separately, and each ticket shall constitute a
4 separate and equal chance to win. All raffle tickets shall be sold for the price stated
5 on the ticket, and no person shall be required to purchase more than one (1) ticket or
6 to pay for anything other than a ticket to enter a raffle. Raffle tickets shall have a
7 unique identifier for the ticket holder. Winners shall be drawn at random at a date,
8 time, and place announced in advance or printed on the ticket. All prizes for a raffle
9 shall be identified in advance of the drawing and all prizes identified shall be
10 awarded.
- 11 (4) With respect to charity fundraising events, a licensed charitable organization shall
12 be limited as follows:
- 13 (a) No licensed charitable organization shall conduct a charity fundraising event
14 or a special limited charity fundraising event unless they have a license for the
15 respective event issued by the department{office};
- 16 (b) No special license shall be required for any wheel game, such as a cake wheel,
17 that awards only noncash prizes the value of which does not exceed one
18 hundred dollars (\$100);
- 19 (c) The department{office} may grant approval for a licensed charitable
20 organization to play bingo games at a charity fundraising event. Cash prizes
21 for bingo games played during a charity fundraising event may not exceed five
22 thousand dollars (\$5,000) for the entire event. No person under the age of
23 eighteen (18) shall be permitted to play bingo at a charity fundraising event
24 unless accompanied by a parent or legal guardian;
- 25 (d) The department{office} may grant approval for a licensed charitable
26 organization to play special limited charitable games at a charity fundraising
27 event authorized under this section. The department{office} shall not grant

1 approval for the playing of special limited charitable games under the
 2 provisions of a charity fundraising event license unless the proposed event
 3 meets the definition of a charity fundraising event held for community, social,
 4 or entertainment purposes apart from charitable gaming in accordance with
 5 KRS 238.505(8); and

6 (e) Except for state, county, city fairs, and special limited charity fundraising
 7 events, a charity fundraising event license issued under this section shall not
 8 exceed seventy-two (72) consecutive hours. A licensed charitable organization
 9 shall not be eligible for more than four (4) total charity fundraising event
 10 licenses per year, including two (2) special limited charity fundraising event
 11 licenses. No person under eighteen (18) years of age shall be allowed to play
 12 or conduct any special limited charitable game. The department~~office~~ shall
 13 have broad authority to regulate the conduct of special limited charity
 14 fundraising events in accordance with the provisions of KRS 238.547.

15 (5) Presentation of false, fraudulent, or altered identification by a minor shall be an
 16 affirmative defense in any disciplinary action or prosecution that may result from a
 17 violation of age restrictions contained in this section, if the appearance and
 18 character of the minor were such that his or her age could not be reasonably
 19 ascertained by other means.

20 ➔Section 544. KRS 238.550 is amended to read as follows:

21 (1) All adjusted gross receipts from charitable gaming shall be handled only by
 22 chairpersons, officers, or employees of the licensed charitable organization.

23 (2) Within two (2) business days after the completion of a charitable gaming event or
 24 session, all gross receipts and adjusted gross receipts shall be deposited into one
 25 checking account devoted exclusively to charitable gaming. This checking account
 26 shall be designated the "charitable gaming account," and the licensed charitable
 27 organization shall maintain its account at a financial institution located in the

1 Commonwealth of Kentucky. No other funds may be deposited or transferred into
2 the charitable gaming account.

3 (3) All payments for charitable gaming expenses, payments made for prizes purchased,
4 and any charitable donations from charitable gaming receipts shall be made from
5 the charitable gaming account and the payments or donations shall be made only by
6 bona fide officers of the organization by checks having preprinted consecutive
7 numbers and made payable to specific persons or organizations. No check drawn on
8 the charitable gaming account may be made payable to "cash," or "bearer," except
9 that a licensed charitable organization may withdraw start-up funds for a charitable
10 gaming event or session from the charitable gaming account by check made payable
11 to "cash" or "bearer," if these start-up funds are redeposited into the charitable
12 gaming account together with all adjusted gross receipts derived from the particular
13 event or session. Checks shall be imprinted with the words "charitable gaming
14 account" and shall contain the organization's license number on the face of each
15 check. Payments for charitable gaming expenses, prizes purchased, and charitable
16 donations may be made by electronic funds transfer if the payments are made to
17 specific persons or organizations. The department~~office~~ may by administrative
18 regulation adopt alternative reporting requirements for charitable gaming of limited
19 scope or duration, if these requirements are sufficient to ensure accountability for all
20 moneys handled.

21 (4) A licensed charitable organization shall expend net receipts exclusively for
22 purposes consistent with the charitable, religious, educational, literary, civic,
23 fraternal, or patriotic functions or objectives for which the licensed charitable
24 organization received and maintains federal tax-exempt status, or consistent with its
25 status as a common school, an institution of higher education, or a state college or
26 university. No net receipts shall inure to the private benefit or financial gain of any
27 individual.

- 1 (5) Accurate records and books shall be maintained by each organization exempt from
 2 licensure under KRS 238.535(1) and each licensed charitable organization for a
 3 period of three (3) years. Department~~{Office}~~ staff shall have access to these
 4 records at reasonable times. Licensed charitable organizations and exempt
 5 organizations shall maintain their charitable gaming records at their offices or
 6 places of business within the Commonwealth of Kentucky as identified in their
 7 license applications or applications for exempt status. An exempt organization shall
 8 submit a yearly financial report in accordance with KRS 238.535(2), and failure to
 9 file this report shall constitute grounds for revocation of the organization's exempt
 10 status.
- 11 (6) All licensed charitable organizations that have annual gross receipts of two hundred
 12 thousand dollars (\$200,000) or less and do not have a weekly bingo session shall
 13 report to the department~~{office}~~ annually at the time and on a form established in
 14 administrative regulations promulgated by the department~~{office}~~.
- 15 (7) All other licensed charitable organizations shall submit reports to the
 16 department~~{office}~~ at least quarterly at the time and on a form established in
 17 administrative regulations promulgated by the department~~{office}~~.
- 18 (8) Failure by a licensed charitable organization to file reports required under this
 19 chapter shall constitute grounds for revocation of the organization's license or denial
 20 of the organization's application to renew its license in accordance with KRS
 21 238.560(3). Reports filed by a licensed charitable organization shall include but
 22 shall not be limited to the following information:
- 23 (a) All gross receipts received from charitable gaming for the reporting period,
 24 classified by type of gaming activity;
- 25 (b) The names and addresses of all persons who are winners of prizes having a
 26 fair market value of six hundred dollars (\$600) or more;
- 27 (c) All expenses paid and the names and addresses of all persons to whom

1 expenses were paid;

2 (d) All net receipts retained and the names and addresses of all charitable
3 endeavors that received money from the net receipts; and

4 (e) Any other information the department~~[office]~~ deems appropriate.

5 (9) No licensed charitable organization shall incur charitable gaming expenses, except
6 as provided in this chapter. No licensed charitable organization shall be permitted to
7 expend amounts in excess of prevailing market rates for the following charitable
8 gaming expenses:

9 (a) Charitable gaming supplies and equipment;

10 (b) Rent;

11 (c) Utilities;

12 (d) Insurance;

13 (e) Advertising;

14 (f) Janitorial services;

15 (g) Bookkeeping and accounting services;

16 (h) Security services;

17 (i) Membership dues for its participation in any charitable gaming trade
18 organization; and

19 (j) Any other expenses the department~~[office]~~ may determine by administrative
20 regulation to be legitimate.

21 (10) No licensed charitable organization shall expend receipts from charitable gaming
22 activities nor incur expenses to form, maintain, or operate as a labor organization.

23 ➔Section 545. KRS 238.555 is amended to read as follows:

24 (1) No person shall operate a charitable gaming facility unless the person is licensed
25 under the provisions of this chapter. The department~~[office]~~ shall charge a license
26 fee not to exceed two thousand five hundred dollars (\$2,500). Specific license fees
27 to be charged shall be prescribed in a graduated scale promulgated by administrative

1 regulation and based on the number of sessions which the facility holds per week or
 2 other applicable factors or combination of factors. Charitable gaming may be
 3 conducted in a charitable gaming facility only by a licensed charitable organization
 4 in accordance with the provisions of this chapter.

5 (2) In the application process, an applicant for a charitable gaming facility license shall
 6 submit the following information:

7 (a) The address of the facility;

8 (b) A description of the facility to include square footage of the gaming area,
 9 capacity levels, and available parking;

10 (c) The names, addresses, dates of birth, and Social Security numbers of all
 11 individuals employed by or contracted with the applicant to manage the
 12 facility or provide other authorized services;

13 (d) The name, address, date of birth, and Social Security number of any individual
 14 who has a ten percent (10%) or greater financial interest in the facility;

15 (e) A copy of the lease agreement used by the applicant; and

16 (f) Any other information the department~~office~~ deems appropriate.

17 (3) No owner, officer, employee, or contractee of a licensed charitable gaming facility
 18 or an affiliate, or any member of the immediate family of any officer, employee, or
 19 contractee of a licensed charitable gaming facility or an affiliate shall, concerning a
 20 lessee:

21 (a) Manage or otherwise be involved in the conduct of charitable gaming;

22 (b) Provide bookkeeping or other accounting services related to the conduct of
 23 charitable gaming;

24 (c) Handle any moneys generated in the conduct of charitable gaming;

25 (d) Advise a licensed charitable organization on the expenditure of net receipts;

26 (e) Provide transportation services in any manner to patrons of a charitable
 27 gaming activity;

- 1 (f) Provide advertisement or marketing services in any manner to a licensed
2 charitable organization;
- 3 (g) Provide, coordinate, or solicit the services of personnel or volunteers in any
4 manner;
- 5 (h) Influence or require a licensed charitable organization to use a certain
6 distributor or any particular gaming supplies; or
- 7 (i) Donate or give any prize to be awarded in the conduct of charitable gaming.
- 8 (4) A licensed charitable gaming facility shall execute a lease agreement with each
9 licensed charitable organization that desires to conduct charitable gaming at the
10 facility. The licensed charitable gaming facility shall agree in the lease to provide
11 gaming space, utilities, insurance for the premises, parking, tables and chairs, and
12 other nongaming equipment necessary for the conduct of charitable gaming,
13 adequate storage space, security, and janitorial services. The costs of the goods and
14 services provided shall be itemized in the lease. A licensed charitable organization
15 may elect to provide for itself any of the goods and services that a charitable gaming
16 facility is required to provide under this subsection, provided these arrangements
17 are clearly noted in the lease agreement, and provided the total compensation to be
18 paid the charitable gaming facility is reduced commensurate with the cost of the
19 goods and services as itemized in the lease. The amount of rent, goods, and services
20 charged shall be reasonable and shall be based on prevailing market values in the
21 general locality for the goods and services to be provided. Rent shall not be based in
22 whole or in part, on a percentage of gross receipts or net proceeds derived from the
23 conduct of charitable gaming or by reference to the number of people in attendance.
24 The department~~[office]~~ by administrative regulation may establish standards for the
25 determination of prevailing market values. A copy of each signed lease agreement
26 shall be filed with the department~~[office]~~. The provisions of this subsection shall
27 apply to any lease agreement for a facility where charitable gaming is to be

1 conducted, whether or not it is with a licensed charitable gaming facility.

2 (5) The number of bingo sessions conducted at a charitable gaming facility shall be
3 limited to the following:

4 (a) No more than eighteen (18) sessions per week if the charitable gaming facility
5 is located in a city of the first class, in a city of the second class, in an urban-
6 county, in a consolidated local government, or charter county government, or
7 in a county containing a city of the first class or second class;

8 (b) No more than eight (8) sessions per week if the charitable gaming facility is
9 located in a city of the third class, fourth class, fifth class, or sixth class, or in
10 a county that does not contain a city of the first class or second class.

11 (6) A licensed charitable gaming facility shall report at least quarterly to the
12 department~~[office]~~ and shall provide any information concerning its operation that
13 the department~~[office]~~ may require.

14 (7) A charity fundraising event at which special limited charitable games are played
15 may be conducted at a licensed charitable gaming facility, but no licensed charitable
16 gaming facility shall be permitted to hold more than one (1) such event per week or
17 more than seven (7) per year.

18 (8) A licensed charitable gaming facility shall conspicuously display a sign bearing the
19 name and the license number of the charitable organization that is conducting
20 charitable gaming activities in the facility.

21 (9) The license to operate the charitable gaming facility shall be prominently displayed
22 on or in the premises where charitable gaming activity is being conducted, in a
23 conspicuous location that is readily accessible to gaming patrons as well as
24 employees of the department~~[office]~~, law enforcement officials, and other
25 interested officials.

26 ➔Section 546. KRS 238.560 is amended to read as follows:

27 (1) The department~~[office]~~ may investigate allegations of wrongdoing upon complaint

1 or upon its own volition. The department~~{office}~~ by administrative regulation shall
 2 establish procedures for receiving and investigating complaints in an expeditious
 3 manner.

4 (2) In carrying out its enforcement responsibilities, the department~~{office}~~ may:

5 (a) Inspect and examine all premises in which or on which charitable gaming is
 6 conducted or charitable gaming supplies or equipment are manufactured or
 7 distributed;

8 (b) Seize and remove from premises and impound charitable gaming supplies and
 9 equipment for the purposes of examination and inspection pursuant to an
 10 appropriate court order;

11 (c) Demand access to, inspect, and audit books and records of licensees for the
 12 purpose of determining compliance with laws and administrative regulations
 13 relative to charitable gaming; and

14 (d) Conduct in-depth audits and investigations, when warranted.

15 (3) (a) As used in this subsection, "willful" means that the conduct constituting the
 16 violation was committed with intent, not accidentally or inadvertently.

17 (b) The department~~{office}~~ may take appropriate administrative action against
 18 any person licensed under this chapter for any violation of the provisions of
 19 this chapter or administrative regulations promulgated thereunder subject to
 20 the conditions established by this subsection.

21 (c) The department~~{office}~~ may deny a license, suspend or revoke a license, issue
 22 a cease and desist order, place a license holder on probation, issue a letter of
 23 reprimand or letter of warning, and levy a fine. An administrative fine shall
 24 not exceed one thousand dollars (\$1,000) for each offense. The
 25 department~~{office}~~ may deny the issuance of a license or a license renewal if
 26 the applicant or licensee has failed to pay a fine levied by the
 27 department~~{office}~~. The department~~{office}~~ shall by administrative regulation

1 classify types of offenses and the recommended administrative action. The
2 type of action to be taken shall be based on the history of previous violations
3 and the nature, severity, and frequency of the offense. Administrative action
4 authorized in this section shall be in addition to any criminal penalties
5 provided in this chapter or under other provisions of law.

6 (d) 1. Notwithstanding any other provisions of this section, the
7 department~~{office}~~ shall review, within two (2) months of receipt,
8 timely filed organization quarterly reports that include payment of the
9 fee due as reflected on the organization quarterly report. If the
10 department~~{office}~~ discovers reporting errors that are not willful, the
11 department~~{office}~~ shall, prior to taking any other administrative action,
12 issue a letter of warning to the licensee and allow the licensee thirty (30)
13 days from the issuance of the letter to correct the identified violation.
14 The purpose of this subparagraph is for the department~~{office}~~ to
15 identify correctable reporting errors in a timely manner, and to notify the
16 licensee of the errors prior to the due date of the next organization
17 quarterly report so that the errors are corrected and are not repeated in
18 subsequent organization quarterly reports.

19 2. A review conducted under subparagraph 1. of this paragraph shall not be
20 considered an audit or final review and acceptance of an organization
21 quarterly report and payment. The department~~{office}~~ shall have four (4)
22 years from the date of filing to fully audit and review an organization
23 quarterly report, and may pursue administrative actions against the
24 licensee related to an organization quarterly report or the information
25 reported on an organization quarterly report within the four (4) year
26 period if violations or errors that are not willful are discovered. This
27 subparagraph shall not be construed to require records that are not

1 needed to audit or review an organization quarterly report to be kept
2 longer than is required elsewhere in this chapter or in any related
3 administrative regulations.

4 3. Notwithstanding the provisions of subparagraph 2. of this paragraph, for
5 a violation that is determined to be willful, the department~~{office}~~ may
6 pursue the administrative actions authorized by this section at any time.

7 4. A letter of warning issued under this section shall:
8 a. Identify the violation;
9 b. Describe the corrective action necessary;
10 c. Identify the administrative actions that can be taken if the violation
11 is not addressed; and
12 d. Provide that the person shall have thirty (30) days to correct the
13 action leading to the violation.

14 (4) The department~~{office}~~ may reinstate a license that has been revoked at any time
15 after two (2) years from the date of revocation. A license may be reinstated only
16 upon a finding that the violations for which the license was revoked have been
17 corrected.

18 (5) All departments, divisions, boards, agencies, officers, and institutions of the
19 Commonwealth of Kentucky and all subdivisions thereof, in particular local law
20 enforcement entities, shall cooperate with the department~~{office}~~ in carrying out its
21 enforcement responsibilities.

22 (6) The department~~{office}~~ shall report any activity or action which would constitute a
23 criminal offense to the appropriate authorities in the county where the activity or
24 action occurred and to the Attorney General.

25 ➔Section 547. KRS 238.565 is amended to read as follows:

26 (1) A license holder may appeal any administrative action taken under KRS 238.560. A
27 license holder shall be notified in writing of any action to be taken against him. The

notification may be delivered in person or mailed by certified mail, return receipt requested, to the last known address of the license holder. Service of notification of administrative action, whether by hand delivery or by certified mail, shall be deemed complete if the license holder fails or refuses to accept delivery. For service by hand delivery, notification shall be deemed received upon acceptance of delivery or upon failure or refusal to accept delivery, and the person affecting service on behalf of the department~~[office]~~ shall record the fact of the failure or refusal. For service by certified mail, the notification of administrative action shall be deemed received when the license holder accepts delivery or fails or refuses to accept delivery at the last known address. The notification shall specify the charges against the license holder, specify the proposed administrative sanction, and advise him of his right to appeal the decision within ten (10) days of the date of receipt of the notification.

(2) Upon receipt of an appeal, the department~~[office]~~ shall schedule the matter for an administrative hearing that shall be conducted in accordance with KRS Chapter 13B.

(3) Any provisions of KRS Chapter 13B notwithstanding, within twenty (20) days after the conclusion of a hearing, the hearing officer shall prepare and present to the commissioner~~[executive director]~~ a recommended order based on findings of fact and conclusions of law. Within thirty (30) days of receipt of the recommended order, the commissioner~~[executive director]~~ shall affirm, reject, or modify, in whole or in part, the recommended order and shall issue a final order. The final order shall be the final administrative action on the matter and a copy of the final order shall be mailed to the license holder, by certified mail, return receipt requested.

(4) Any administrative action taken under this section shall, upon appeal, be stayed until a final order is issued, with the exception of a summary suspension. The department~~[office]~~ may issue an emergency order pursuant to KRS 13B.125 to

1 summarily suspend a license upon finding that continued operation of the license
 2 holder pending a hearing would constitute a threat to the public health, safety, or
 3 welfare.

- 4 (5) A final order of the commissioner~~[executive director]~~ may be appealed to Franklin
 5 Circuit Court in accordance with KRS Chapter 13B. If the license holder against
 6 whom administrative action is proposed does not request an appeal of the action,
 7 the department~~[office]~~ shall enter a final order imposing the proposed
 8 administrative action.

9 ➔Section 548. KRS 238.570 is amended to read as follows:

- 10 (1) A fee is imposed on charitable gaming in the amount of fifty-three hundredths of
 11 one percent (0.53%) of gross receipts derived from all charitable gaming conducted
 12 by charitable organizations required to be licensed in the Commonwealth of
 13 Kentucky. The amount of the fee shall be adjusted by October 1 of each odd-
 14 numbered year in accordance with subsection (3) of this section. Each licensed
 15 charitable organization shall remit to the department~~[office]~~ all moneys due as set
 16 forth in administrative regulations promulgated by the department~~[office]~~. Failure
 17 by a licensed charitable organization to timely remit the fee required under this
 18 subsection upon notice of delinquency shall constitute grounds for disciplinary
 19 action in accordance with KRS 238.560.

- 20 (2) The charitable gaming regulatory account is hereby created as a revolving account
 21 within the agency revenue fund and under the control of the ~~[Environmental and~~
 22 ~~]Public Protection Cabinet~~. All revenues generated from the fee levied in subsection
 23 (1) of this section from license fees and from administrative fines imposed by the
 24 department~~[office]~~ shall be deposited in this account. Fund amounts attributable to
 25 the fee levied in subsection (1) of this section that are not expended at the close of a
 26 fiscal year shall not lapse but shall be carried forward to the next fiscal year.

- 27 (3) (a) No later than July 31 of each odd-numbered year, the ~~[Environmental and~~

1 }Public Protection Cabinet shall determine:

- 2 1. The amount of gross receipts during the prior biennium against which
- 3 the fee collected under subsection (1) of this section was assessed; and
- 4 2. The final budgeted amount as determined by the enacted budget for the
- 5 upcoming biennium for the administration and enforcement of the
- 6 provisions of this chapter. If a budget is not enacted, the amount shall be
- 7 the corresponding amount in the last enacted budget.

- 8 (b) On October 1 of each odd-numbered year, the fee assessed under subsection
- 9 (1) of this section shall be proportionally adjusted by the ~~{Environmental and~~
- 10 }Public Protection Cabinet. The new rate shall be calculated by multiplying
- 11 one hundred ten percent (110%) by the amount determined in paragraph (a)2.
- 12 of this subsection, and subtracting from that amount one-half (1/2) of any
- 13 remaining balance in the account. The total shall then be divided by the
- 14 amount determined in paragraph (a)1. of this subsection. The result shall be
- 15 expressed as a percentage and shall be rounded to the nearest thousandth of a
- 16 percent (0.000%).

17 ➔Section 549. KRS 241.010 is amended to read as follows:

18 As used in this chapter and in KRS Chapters 242 and 243, unless the context requires

19 otherwise:

- 20 (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from
- 21 whatever source or by whatever process it is produced;
- 22 (2) "Alcoholic beverage" means every liquid or solid, whether patented or not,
- 23 containing alcohol in an amount in excess of more than one percent (1%) of alcohol
- 24 by volume, which is fit for beverage purposes. It includes every spurious or
- 25 imitation liquor sold as, or under any name commonly used for, alcoholic
- 26 beverages, whether containing any alcohol or not. It does not include the following
- 27 products:

- 1 (a) Medicinal preparations manufactured in accordance with formulas prescribed
2 by the United States Pharmacopoeia, National Formulary, or the American
3 Institute of Homeopathy;
- 4 (b) Patented, patent, and proprietary medicines;
- 5 (c) Toilet, medicinal, and antiseptic preparations and solutions;
- 6 (d) Flavoring extracts and syrups;
- 7 (e) Denatured alcohol or denatured rum;
- 8 (f) Vinegar and preserved sweet cider;
- 9 (g) Wine for sacramental purposes;
- 10 (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external
11 use; and
- 12 (i) Malt beverages, containing not more than three and two-tenths percent (3.2%)
13 of alcohol by weight, in territory that has voted to allow the sale thereof;
- 14 (3) (a) "Alcohol vaporizing device" or "AWOL device" means any device, machine,
15 or process that mixes liquor, spirits, or any other alcohol product with pure
16 oxygen or by any other means produces a vaporized alcoholic product used for
17 human consumption;
- 18 (b) "Alcohol vaporizing device" or "AWOL device" does not include an inhaler,
19 nebulizer, atomizer, or other device that is designed and intended by the
20 manufacturer to dispense a prescribed or over-the-counter medication or a
21 device installed and used by a licensee under this chapter to demonstrate the
22 aroma of an alcoholic beverage;
- 23 (4) "Board" means the State Alcoholic Beverage Control Board created by KRS
24 241.030;
- 25 (5) "Bottle" means any container which is used for holding alcoholic beverages for the
26 use and sale of alcoholic beverages at retail;
- 27 (6) "Brewer" means any person who manufactures malt beverages or owns, occupies,